

ORDINANCE NO. 4672-16

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE CODE OF ORDINANCES AT CHAPTER 94, ZONING AND LAND DEVELOPMENT REGULATIONS, ARTICLE 11, ORGANIZATION, ADMINISTRATION AND ENFORCEMENT, SECTION 94-51, TO ALLOW CERTAIN TAX EXEMPTIONS FOR HISTORIC PROPERTIES; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

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WHEREAS, the Florida Constitution authorizes municipalities to allow certain tax exemptions for historic properties, Article VII, Section 3(E), Fla. Const.; and

WHEREAS, the Florida Legislature enacted Sections 196.1997 and 196.1998, Florida Statutes, to govern the allowance of such exemptions; and

WHEREAS, the City of West Palm Beach is a certified local government approved by the Florida Department of State to make determinations as to municipal tax exemption for historic properties; and

WHEREAS, the City Commission of the City of West Palm Beach, by Ordinance No. 2710-94, determined that it is in the public interest to provide tax exemptions to encourage and promote rehabilitation and renovation of historic properties and designated the Historic Preservation Board to review and make recommendation to the City Commission regarding applications for historic tax exemptions; and

WHEREAS, by Ordinance 95-41, Palm Beach County enacted a tax exemption for renovation and restoration of historic properties; and

WHEREAS, by Interlocal Agreement for Implementation of Palm Beach County Historic Tax Exemption, dated April 2, 1996 (R96 442), Palm Beach County authorized the City Commission to perform the review for county historic tax exemptions within the City; and

WHEREAS, in recent years the West Palm Beach Community Redevelopment Agency ("CRA") has issued several series of tax increment revenue bonds to finance various programs under the CRA's Redevelopment Plan and Strategic Finance Plans; and

WHEREAS, Sec. 196-1997(4), Florida Statutes, provides that the historic tax exemption does not apply to taxes levied for the payment of bonds; and

WHEREAS, the City Commission desires to amend and re-state its historic preservation property tax exemption program to provide for historic tax exemptions within CRA districts provided there is no deficiency in bond debt service coverage.

NOW, THEREFORE, BE IT ORDAINED BY CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, that:

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SECTION 1: Chapter 94, Zoning and Land Development Regulation, Article 11 Organization, Administration and Enforcement, Section 94-51, Historic Preservation property tax exemption program is hereby amended and re-stated to provide for historic tax exemptions in CRA districts provided there is sufficient debt coverage for outstanding bonds and to comply with statute, and Section 94-51 shall now read, in its entirety, as follows:

Sec. 94-51 Historic preservation property tax exemption program.

(a) A property owner may apply for an exemption from ad valorem taxation of 100 percent of the assessed value of qualified improvements which result from the restoration, renovation or rehabilitation of eligible historic properties.

(b) *Eligible property.* A property is eligible for an exemption if, at the time the exemption is granted, the property is listed in the National Register of Historic Places, or is a contributing property to a national-register-listed district, or is designated as a historic property in the City's register of historic places, or is a contributing property to a city-designated historic district under the terms of the city's ordinances.

(c) *Improvements.* Qualified physical improvements shall be those necessary to restore, renovate or rehabilitate an eligible property consistent with any city ordinance designating the property or district as historic. The improvements must comply with the United States Secretary of Interior's Standards for Rehabilitation and comply with Florida Department of State guidelines. Improvements may include additions, alterations and new construction.

(d) *Process.*

- (i) Application for the tax exemption shall be written and submitted on the form prescribed by the state. Applications shall be submitted to the planning divisions accompanied by the fees established by resolution of the city commission. An application shall be submitted before the project is initiated.
- (ii) Upon receipt of a complete application, the historic preservation planner shall, within 60 days, conduct a review to determine if the property is eligible and the improvements qualify for exemption. If the historic preservation planner finds that the property is eligible and the improvements are qualified, the application shall be approved. If the historic preservation planner determines that the planned improvements do not meet the requirements of statute or this section, the applicant shall be so advised in writing and the historic preservation planner shall make recommendations concerning changes to the proposed work to make it a qualifying improvement and bring it into compliance with the review standards.
- (iii) All work shall be completed within two years of approval by the historic preservation planner, unless such time is extended by decision of the historic preservation board, and provided such extension does not conflict with the building permit or requirements of the city's building code.

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- (iv) Upon completion of the work, the applicant shall submit a final application/request for review of completed work, along with documentation of the total cost of the qualifying improvements. Upon receipt of a complete final application, the historic preservation planner shall, within 30 days, conduct a review to determine whether the completed improvements comply with the approved application and the United States Secretary of Interior's Standards for Rehabilitation and comply with Florida Department of State guidelines. The city may inspect the work as part of such review. If the historic preservation planner finds that the property is eligible and the improvements are qualified, the historic preservation planner shall present such final request for review to the historic preservation board with a recommendation for approval. If the historic preservation planner determines that the planned improvements do not meet the requirements of statute or this section, the applicant shall be so advised in writing and the historic preservation planner shall make recommendations concerning changes to the proposed work to make it a qualifying improvement bring it into compliance with the review standards.
- (v) If the historic preservation planner recommends approval of the final request for review, the recommendation, and the reasons therefore, shall be provided in writing to the applicant and the historic preservation board at a public meeting. The historic preservation board shall review the application, final request for review and shall recommend that the city commission either grant or deny the exemption.
- (vi) The final request for review, along with the recommendation of the historic preservation planner and the recommendation of the historic preservation board shall be presented to the city commission for consideration. The city commission shall make the determination to grant or deny the exemption.
- (vii) The resolution of the city commission approving an exemption shall provide the name of the property owner, the property address, legal description and parcel control number, the period of time the exemption may be effective and the expiration date of the exemption, and shall further provide that such exemption shall not be effective unless the owner records the restrictive covenant in the public records of Palm Beach County, as required in this section.

(e) *Covenant.* A historic tax exemption shall only be effective provided the property owner executes a covenant, in such form established by the state, committing that the historic character of the property and the qualifying improvements shall be maintained for the term of the tax exemption. The covenant shall be recorded in the public records of Palm Beach County and shall be binding on the property owners and all subsequent owners during the exemption term. Failure to record the covenant, or failure to maintain the qualifying improvements and historic character of the property may subject the property owner to pay the taxes which would have been paid had the property not received the exemption, plus interest, in accordance with statute.

(f) *Permits.* The property owner shall remain responsible for obtaining a building permit and all other required permits and approvals. No certificate of occupancy shall be

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issued by the city until the city commission has approved the tax exemption and any appeal proceedings have been completed.

(g) *Term.* Any historic tax exemption granted shall remain in effect for up to ten consecutive calendar years provided: (i) the historic character of the property and the improvements which qualified the property for exemption are maintained, and (ii) if the property is in a community redevelopment agency district, the city finance director has made an annual determination that there is sufficient debt service coverage for any outstanding agency bonds.

(h) *Fiscal analysis.* During each year's budget process, the finance director shall perform an analysis of tax increment revenue and debt service coverage for any outstanding community redevelopment agency bonds for the next fiscal year. In the event that the historic tax exemptions in that agency district negatively impact debt service coverage, the finance director shall notify the property appraiser, prior to September 15th and certification of the tax rolls, that the historic tax exemption is suspended for the properties within that district for the next fiscal year. The tax exemption may be re-instituted for the next fiscal year provided there is sufficient debt coverage.

(i) *Revocation.* The historic preservation planner or the historic preservation board may initiate proceedings to revoke the tax exemption in the event that the property owner fails to maintain the qualifying improvements and historic character of the property in accordance with the conditions of the restrictive covenant. The historic preservation board shall review the property's compliance and shall recommend that the city commission either maintain or revoke the tax exemption. The historic preservation planner shall provide the property owner with a least thirty days prior notice of the hearing before the historic preservation board. The city commission shall review the recommendation of the historic preservation board at a public hearing and make a determination as to whether the tax exemption shall be revoked. Should the city commission determine that a tax exemption shall be revoked, a written resolution revoking the exemption including a notice of penalties shall be provided to the owner the property appraiser and recorded in the public records of Palm Beach County.

SECTION 2: Should any section or provision of this Ordinance or any paragraph, sentence or word, be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Ordinance.

SECTION 3: All ordinances or parts of all other ordinances in conflict herewith are hereby repealed.

SECTION 4: Authority is hereby granted to codify the text amendments set forth in Section 1 of this Ordinance.

SECTION 5: This Ordinance shall become effective in accordance with law.