

## ARTICLE 5. - HISTORIC STRUCTURES AND SITES

### Section 106.39. - Intent and purpose.

- A. It is hereby declared a matter of public policy that the protection and enhancement of properties of historic, cultural, archaeological, and architectural merit are in the interests of the health, prosperity, and welfare of the people of the City of Marathon. Therefore, it is the intent and purpose of this section to:
1. It is the purpose of this Section to implement the City of Marathon Comprehensive Plan; and to preserve, protect, restore, rehabilitate, and encourage adaptive use consistent with preservation of historic character of structures, sites, travel routes, cemeteries, districts, buildings, objects, or other real or personal properties with intrinsic historical or architectural value relating to the history, government, and culture of the City, State, or Nation.
  2. Protect and enhance buildings, structures, improvements, landscape features, and archaeological resources of sites and districts which represent distinctive elements of Marathon's cultural, social, economic, political, scientific, prehistoric, and architectural history;
  3. Safeguard Marathon's historic, cultural, archaeological, and architectural heritage, as embodied and reflected in such individual sites, districts, and archaeological areas;
  4. Foster civic pride in the accomplishments of the past;
  5. Protect and enhance Marathon's attraction to visitors and thereby support and stimulate the economy; and
  6. Acknowledge historic property with minimal cost to the property owner.
  7. Stabilize and improve property values, and enhance the visual and aesthetic character of Marathon.
- B. Preservation, restoration, or rehabilitation of historic structures shall be encouraged and incentives provided where possible.
- C. Adaptive use of historic structures consistent with preservation of their historic character shall be encouraged. Where possible, variances to building Codes and regulations shall be made to facilitate the rehabilitation and maintenance of historic structures. Historic structures originally built for residential use shall be maintained as residential dwellings to the greatest extent possible, but may be adapted to other uses.

### Section 106.40. – Definitions

For the purposes of this section, the terms and phrases listed below shall have the following meanings:

*Alteration* means any change affecting the exterior appearance of an existing structure or improvement by additions, remodeling, maintenance or structural changes involving changes in form, texture, materials, or color or any such changes in appearance in a specially designated historic site or historic interior.

*Applicant* means the record owner of the property and/or improvements located thereon or the record owner's duly designated representative.

*Architecturally similar* means having substantially the same facade design and appearance and like characteristics in terms of height, scale, building footprint, structural configuration and materials, facade materials, location or setbacks on lot, and exterior appearance.

*Certificate of appropriateness* means a written authorization permitting specified alterations, demolition or other work to be done to a designated historic structure within a designated historic district or for a landmark. A certificate of appropriateness is not a building permit. A City building permit shall be issued prior to the commencement of work on a structure within a designated historic district or historic landmark. There are two types of certificates:

- (1) Standard certificate of appropriateness issued by the Planning Director for ordinary repairs or maintenance to a designated historic structure within a designated historic district or landmark; and
- (2) Special certificate of appropriateness issued directly by the City Council for the renovation, rehabilitation, restoration, or demolition of a designated historic landmark, structure within a designated historic district, new construction within a designated historic district, or for permission to dig in the case of an archaeological landmark.

All renovation, rehabilitation, restoration, or demolition of a historic public property landmark shall also be approved by the City Council, following recommendation by the historic preservation commission.

*Certified local government* means a program administered by the U.S. Department of the Interior which enables communities to have a more direct part in both state and federal historic preservation programs.

*Contributing structure* means a structure contributing to the historic significance of a district which by location, design, setting, materials, workmanship, feeling, and association adds to the district's sense of time and place, and historic development.

*Demolition* means the act or process of wrecking, destroying, moving or removing any building or structure, or any exterior or structural part thereof.

*Demolition by neglect* means abandonment of a building or structure by the owner resulting in such a state of deterioration that its self-destruction is inevitable, or where demolition of the building or structure to remove a safety hazard is a likely result.

*Designated historic landmark* means a building, site, structure, landscape feature or object that is designated as an archaeological, historic, or cultural landmark under this section.

*Facade* means the exterior vertical surfaces of a building, including without limitation the shape, appearance, and material of the sides, front, and rear of any building.

*Historic building* means any building or structure which, in whole or in any structural part, was built 50 or more years prior to the current date, and which is located in the historic zoning districts of the city or has been designated as a historic building and/or structure.

*Historic district* means a geographically defined area possessing a significant concentration, linkage, or continuity of landmarks, improvements, or landscape features united by historic events or aesthetically by plan or physical development, and which area has been designated as a historic district. Such district may have within its boundaries noncontributing buildings or other structures that, while not of such historic or architectural significance to be designated as landmarks, nevertheless contribute to the overall visual character of the district.

*Historic preservation commission, referred to in this section as the HPC,* means the board appointed by the City Council to perform the functions delegated to it by this section.

*Historic site* means any parcel of land of historic significance due to a substantial value in tracing the history or prehistory of man, or upon which a historic event has occurred, and which has been designated as a historic site under this section, or an improvement parcel, or part thereof, on which is situated a historic structure and any abutting improvement parcel, or part thereof, used as and constituting part of the premises on which the historic structure is situated.

*Historic structure* means any improvement which has a special character or special historic interest or value as part of the development, heritage or cultural characteristics of the City, State or Nation and which has been designated as a historic structure pursuant to the provisions of this chapter.

*Historic survey* means the results of a systematic process of identifying significant buildings, sites and structures through visual reconnaissance and research.

*Improvement* means changes in the condition of real property brought about by the expenditure of labor or money for restoration, renovation, rehabilitation, or reconstruction of a designated historic structure within a designated historic district or landmark.

*Landscape Feature* means any improvement or vegetation, including but not limited to outbuildings, walls, courtyards, fences, shrubbery, trees, sidewalks, planters, plantings, gates, street furniture, and exterior lighting and site improvements, including but not limited to subsurface alterations, site regrading, fill deposition, and paving.

*Local register of historic places* means a listing and a means by which to identify, classify and recognize various archaeological sites, building, structures, improvements, districts, and appurtenances as historically and/or architecturally significant.

*Multiple property nomination* means a group of related significant properties which share common themes, and are organized by historic contexts and property types.

*National Register of Historic Places* means the list of historic properties significant in American history, architecture, archaeology, engineering, and culture, maintained by the Secretary of the Interior, as established by the National Historic Preservation Act of 1966 (16 USCA 470), as amended.

*Noncontributing structure* means a building which does not add to the district's sense of time and place and historical development; or one where the location, design, setting, materials, workmanship, feeling and association have been so altered or deteriorated in such a manner that the overall integrity of the building has been irretrievably lost.

*Ordinary repairs or maintenance* means work done to repair ordinary damage or to prevent ordinary deterioration or decay of a building or structure or any part thereof as nearly as possible to its condition prior to such damage, deterioration, or decay, and which does not involve or cause a change in the design, the material, or the exterior appearance of the building.

*Reconstruction* means that process of reproducing by new construction, the exact form and detail of a demolished building, structure, or object, as it appeared at a certain point in time.

*Relocation* means the act of preserving a contributing structure within a historic district or historic landmark which cannot remain on its existing site by physically moving it to a new location.

*Renovation or rehabilitation* means the act or process of returning a structure within a designated historic district or landmark or the portion(s) of a structure that has historical or cultural significance to a state of utility through repair or alteration that makes possible an

efficient contemporary use while preserving those portions or features of the property that are significant to its historic, architectural, cultural, and archaeological values. For historic properties, or the historic portions of such properties that are of archaeological significance or that are severely deteriorated, "renovation or rehabilitation" means the act or process of applying measures designed to sustain and protect the existing form and integrity of a property, or re-establishing the stability of an unsafe or deteriorated property while maintaining the essential form of the property as it presently exists.

*Restoration* means the act or process of accurately recovering the form and details of a historic property and setting, as it appeared at a particular period of time, by means of the removal of later work or by the replacement of missing earlier work.

*Secretary of the Interior's Standards for Rehabilitation (as Revised March 1990)* means a federal publication that provides guidance on the sensitive rehabilitation of a historic property. The ten standards generally address design issues, which include character defining elements, changes which have occurred over the course of the property's history, desirable approaches to the repair of damaged features, appropriate cleaning methods, archaeological or paleontological resources, and new construction in connection with a historic property.

*Undue economic hardship* means an inordinate burden on the owner's use of his property or, in the case of properties producing income at the time of the application for a special certificate of appropriateness, failure to achieve a reasonable economic return as measured against commercial properties of similar nature and location as expected by market conditions.

#### Section 106.41. – Historic Preservation Commission.

- A. *Historic preservation commission:* The historic preservation commission (HPC) is a governmental agency of the City. The HPC is vested with the authority to make recommendations to the City Council on the designation and regulation of City historic structures within a designated historic district and landmarks within the incorporated area of the City as prescribed in this section.
- B. *Appointment and membership qualifications:* The HPC consists of five members appointed by the City Council. Each member shall be a resident of the City at the time of appointment and during the member's term(s) in office. Appointments shall be made on the basis of civic pride, integrity, experience and interest in the field of historic preservation. The City Council shall attempt to nominate architects, realtors, archaeologists, historians, neighborhood activists, lawyers or other individuals from the business, financial and other segments of the community who, by virtue of their profession, business or civic involvement, have demonstrated concern for historic preservation. Membership on the board should be representative of the community at large and reflect a broad cross section of the community. Each member shall have, to the highest extent practicable, a known interest in historic preservation.
- C. *Membership removal, terms, and vacancies:* The HPC members shall serve overlapping terms of three years.
- D. *Organization and administration:* The members of the HPC shall elect a chairperson and vice chairperson, for a one-year term each. The chairperson or, in the absence of the chairperson, the vice-chairperson, shall preside at all meetings and may vote. The

Planning Director shall designate staff to advise and provide clerical support to the HPC. The City attorney shall be the attorney to the HPC. The Planning Director shall be the custodian of all HPC records. The HPC shall meet at least once per month at a date and time established by the HPC, unless there is no business pending.

- E. The HPC shall meet no less than four times per year. At a minimum of one meeting each year, the HPC shall identify those structures within the City which are historically, architecturally or archaeologically significant. The findings of the HPC shall be transmitted to the City Council after each meeting of the HPC, for the review and consideration of the City Council. The HPC shall otherwise encourage the identification, preservation and protection of historically, architecturally or archaeologically significant structures and sites.
- F. *Interlocal Agreements.* Should the City of Marathon fail to maintain a HPC due to lack of qualified commission members, the City shall endeavor to enter into an interlocal agreement with Monroe County. As a Certified Local Government, Monroe County maintains similar standards and criteria as established in Chapter 135 of their Land Development Code. Review of the interlocal agreement shall occur every three years as needed.

#### Section 106.42. – Designation Criteria.

- A. For purposes of this ordinance, a historic structure, historic site, or historic district designation may be placed on any site, natural or improved, including any building, improvement or structure located thereon, or any area of particular historic, architectural, archeological or cultural significance to the City such as historic structures, sites, or districts which:
  - 1. Exemplify or reflect the broad cultural, political, economic or social history of the nation, state or community; or
  - 2. Are identified with historic personages or with important events in national, state or local history; or
  - 3. Embody the distinguishing characteristics of an architectural type or specimen inherently valuable for a study of a period, style, method of construction, or of indigenous materials or craftsmanship; or
  - 4. Are representative of the notable work of a master builder, designer or architect who influenced his age; or
  - 5. Have yielded, or may be likely to yield, information important to prehistory or history.
- B. Ordinarily cemeteries, birthplaces, or graves of historic figures, properties owned by religious institutions or used for religious purposes, structures that 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 may not be recommended for designation as historic properties by the HPC.

However, such properties may be recommended if they fall within one or more of the following categories:

1. A religious property deriving primary significance from architectural or artistic distinction, or historic importance;
  2. 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;
  3. A birthplace or grave of a historic figure of outstanding importance if there is no appropriate site or building directly associated with his productive life;
  4. A cemetery which derives its primary significance from the graves of individuals of transcendent importance, from age, from distinctive design features, or from association with historic events;
  5. A reconstructed building, when done in accordance with this section;
  6. A property primarily commemorative in intent if design, age, tradition, or symbolic value has invested it with its own exceptional significance; or
  7. A property achieving significance in the past 50 years, if it is of exceptional importance.
- C. The commission shall adopt specific operating guidelines for historic structure, historic site and historic district designation providing such are in conformance with the provisions of this ordinance.
1. All historic buildings, structures, archaeological sites, districts, neighborhoods, and the like will be classified and designated on the city historic preservation survey, which will be approved by the City Council and shall be made an overlay to the city zoning map and land use plan. Such buildings, structures, districts, neighborhoods, and the like will be divided into two classes as follows:
    - a) *Contributing*. Those buildings, structures, archaeological sites, or districts classified as historic shall possess identified historical or architectural merit of a degree warranting their preservation. All buildings, structures, archeological sites, and the like, listed in the city historic preservation survey, as adopted and approved by the City Council, will be considered worthy of preservation and may be designated as a historic site or a historic district.
    - b) *Noncontributing*. Noncontributing classes are those buildings and structures within a historic district not listed in the city historic preservation survey and those buildings and structures determined by the HPC to be of no contributing value pursuant to article III of this chapter.
    - c) If due to the passage of time, a noncontributing building or structure would become contributing, then the HPC shall determine its contributing status and forward the property to the city commission for inclusion in the historic resources inventory. The HPC's determination shall be made at a public hearing upon at least ten days' written notice to the property owner.

#### D. Identification

1. *General Mapping:* Maps of known historic structures and sites are maintained by the Florida Department of State, Article of Historical Resources, Master Site File, and by the City of Marathon Planning Department.
2. *Site Specific Determination:* Surveys and analyses for historic structures and sites shall be required prior to alteration of a property known or likely to contain structures or sites of historical significance.
  - a) Where historic structures or sites are mapped, surveys and analyses shall be required by the City without recommendation of the Department of State, Division of Historical Resources.
  - b) Where historic structures or sites are not mapped, surveys and analyses may be required by the City upon recommendation of the Department of State, Division of Historical Resources, or qualified professional.
3. *Standards for Authorized Investigation:* Surveys and analyses for historic structures and sites shall be conducted in accordance with standards and methodology for the natural and historic resources assessment. Authorized investigations and reporting of historic structures and sites shall, at a minimum, conform to Chapter 1A-46, Florida Administrative Code, and the provisions and standards contained in the "Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation", prepared under the authority of Sections 101(f), (g), and (h), and Section 110 of the National Historic Preservation Act of 1966, as amended). These documents are adopted and made part of this chapter by reference. Copies are available from the City Planning Department

#### Section 106.43. – Powers and Duties.

##### A. Designation.

1. The commission shall have the power, subject to Section 106.44, to designate historic structures and historic sites and to recommend designation of historic districts within the City limits. Such designations shall be made based on Section 106.42. Historic districts shall be approved by the City Council. Once designated, such historic structures, sites and districts shall be subject to all the provisions of this ordinance.

##### B. Reconstruction

1. Reconstruction of substantially damaged historic sites. When a designated historic building, structure, object, or site has been substantially damaged, the HPC shall determine through an evaluation of architectural integrity, whether the building, structure, object, or site can be reconstructed using the following criteria.

- a) Whether there is sufficient evidence such as photo-documentation, scaled drawings, or other physical evidence to accurately depict the form and detail of the original resource.
  - b) Whether the original construction materials, or substitute materials that are sufficiently similar so as to convey the original qualities of construction, are readily available.
  - c) Whether the interior spaces are especially significant to the form and function of the building. If so, the HPC shall define the parameters necessary to adequately convey those interior spatial characteristics as requirements in the reconstruction effort.
  - d) Whether the applicant has demonstrated a commitment to the reconstruction effort by making every reasonable effort to preserve or salvage the remaining significant features of the property.
  - e) Whether there are other unique factors or circumstances that would make reconstruction desirable.
2. If the HPC determines that a historic designated structure within a historic district or landmark may be reconstructed, the property owner may submit a reconstruction plan for consideration based on the criteria enumerated in this section. If the property owner chooses not to reconstruct, the HPC may recommend rescission of the historic designation using the procedure established in this section.
3. Reconstruction criteria. Reconstruction of a designated historic structure within a historic district or landmark shall be carried out in accordance with the following criteria.
- a) Reconstruction shall be used to depict non-surviving portions of a structure when such reconstruction is essential to the public understanding of the landmark or historic district, and documentary and physical evidence is available to permit accurate reconstruction.
  - b) Reconstruction of a historic contributing structure within a historic district or landmark in its historic location shall be preceded by a thorough archaeological investigation identifying and evaluating those features and artifacts, which are essential to an accurate reconstruction. If such resources must be disturbed, mitigation measures shall be undertaken.
  - c) Reconstruction shall include measures preserving any remaining historic materials, features, and spatial relationships.
  - d) Reconstruction shall be based on the accurate duplication of historic features and elements substantiated by documentary or physical evidence rather than on conjectural designs or the availability of different



features from other historic landmarks or contributing structures within a historic district. A reconstructed contributing structure within a historic district or landmark shall re-create the appearance of the non-surviving historic site in materials, design, colors, and texture.

- e) All "reconstructions" shall be clearly documented as being contemporary re-creations.

### C. Relocation

1. Application for a certificate of appropriateness for relocating a historic building or structure in the historic districts shall be submitted to the HPC, together with an application fee as determined by resolution by the City Council. Applications for relocating a historic building or structure shall be reviewed by the HPC during a regular meeting. Notice of the meeting shall be published as for a regular meeting, pursuant to Article 4 of Chapter 102 of the LDRs.
2. Requirements precedent to relocation.

The National Register of Historic Places discourages the moving of historic structures because the significance of properties is embodied in their sites and settings as well as in the structures themselves. Any National Register building that is removed from its original foundation is removed from the National Register. After reconsideration, it may be placed back on the National Register if specific criteria are followed, but the building's National Register designation is not guaranteed. The HPC shall not issue a certificate of appropriateness for relocating a historic building or structure unless the HPC renders a finding that the applicant has submitted a relocation plan demonstrating that the proposed relocation satisfies the following criteria:

- a) The built environment for the new site should be similar to the old one in terms of context, the age of the surrounding buildings, their height, materials, setback, and architectural details.
- b) The historic relationship between buildings and streetscape and landscaped features must be maintained.
- c) When a building may be moved, documentation of the building and the relocation must be provided.
- d) The relocated building must be placed so that the orientation of its principal facade and front and side setbacks are compatible with surrounding buildings.
- e) The new foundation's design, height, and facing materials must be comparable with the original historical foundation.

- f) Relocating a contributing building outside of the historic district is prohibited.
- g) Relocating a building to a site where the surrounding buildings date from a different period or are architecturally incompatible due to their height, materials, setback, and detailing is prohibited.
- h) Destruction or alteration of significant features, structures, or archeological sites at the new location is prohibited.
- i) Improperly locating a building on its new site so that its orientation and front and side setbacks are incompatible with surrounding buildings is prohibited.
- j) Placing the building on a new foundation whose design and materials are incompatible with the original is prohibited.

#### D. Certificate of Appropriateness

1. *Certificate of appropriateness required:* No building, structure, improvement, landscape feature or archeological site which is designated shall be altered, restored, renovated, excavated, moved or demolished until an application for a certificate of appropriateness regarding any architectural features, landscape features or site improvements has been reviewed and approved pursuant to the procedures in this section.

The City Council shall adopt standards and guidelines based on the U.S. Secretary of the Interior's Standards for Rehabilitation by which applications for any certificate of appropriateness are to be measured and evaluated. In adopting these standards and guidelines, it shall be the intent of the HPC to promote maintenance, restoration, adaptive reuses appropriate to the property, and compatible contemporary designs which are harmonious with the exterior architectural and landscape features of neighboring buildings, sites and streetscapes. These guidelines shall also serve as criteria for the Planning Director to make decisions regarding applications for standard certificates of appropriateness. From time to time, the City Council may adopt additional standards to preserve and protect special features unique to the City.

2. *Standard certificate of appropriateness:* A standard certificate of appropriateness is required for ordinary repair and maintenance that requires a building permit, except as elsewhere provided for in the City Code. A standard certificate shall be issued for any work that will, to the satisfaction of the Planning Director, not change the appearance of the building, structure, or object. The owner of a designated historic structure within a historic district or landmark who desires a standard certificate of appropriateness shall file an application with the department of planning and development services, on a form prescribed by the director. Upon the receipt of a complete application for a standard certificate of appropriateness, the Planning

Director shall approve the application, deny it, approve it with conditions, or pass the application on to the HPC for further review. If the decision is to deny or pass the application to the HPC, the director shall notify the owner of the decision by certified mail. A denied application shall include an explanatory statement of the director of the basis for the director's decision. The director's decision may be appealed pursuant to Chapter 102, Article 17 of the City Code.

3. *Special certificate of appropriateness:* A special certificate of appropriateness shall be required prior to the issuance of a building permit for any work involving the substantial improvement, relocation, or new construction that will result in a change to the original appearance of a designated historic structure within a historic district or landmark. The owner of a designated historic structure within a historic district or landmark who desires a special certificate of appropriateness shall file an application with the planning and development services, on a form prescribed by the director. The application shall contain the full plans and specifications, a site plan, and if deemed applicable, samples of any materials necessary to fully describe the proposed appearance, colors, texture, materials, and design of the building or structure, any outbuilding, wall, courtyard, fence, unique landscape feature, paving, signage, and exterior lighting. The information shall be adequate to enable the HPC to visualize the effect of the proposed work on the historic structure within a historic district or landmark. When the Planning Director determines that the application is complete, the director shall schedule and notice the application for a public hearing before the HPC. In determining whether to recommend approval or denial of the application, or grant it with conditions, the HPC shall evaluate the application according to a set of guidelines based on the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings. At the conclusion of the public hearing, the HPC shall make a recommendation to the City Council to either grant, deny, or grant with conditions, the application. Notice of the public hearing shall be given to the property owner(s) by certified mail and to other interested parties by an advertisement in the newspaper of general circulation at least ten days prior to the hearing.
4. The City Council shall consider the recommendation of the HPC at a public hearing. Notice of the public hearing shall be given to the property owner(s) by certified mail and to other interested parties by an advertisement in a newspaper of general circulation at least ten days prior to the hearing. At the conclusion of the public hearing, the City Council shall, by written resolution grant, deny, or grant with conditions, the application. The resolution shall contain an explanation of the basis for the City Council's decision. Upon the filing of the resolution with the City clerk, the clerk shall send a certified copy of the resolution by registered mail to the applicant.
5. Unless otherwise provided in the certificate of appropriateness, both standard and special certificates of appropriateness shall expire after 365 days. The Planning

Director may grant extensions of time of up to an additional 180 days for restoration or rehabilitation work only upon satisfaction that the scope of the work originally approved has not changed, and provided a written request is filed and work is commenced before expiration of the certificate.

E. Demolition:

1. A special certificate of appropriateness is required before a demolition permit may be issued for the removal of all or a portion of a designated historic contributing structure within a historic district or landmark. This subparagraph shall not apply to a demolition order issued by a governmental agency with jurisdiction to issue such orders, or a demolition order of a court of competent jurisdiction. If the owner of a designated historic contributing structure within a historic district or landmark desires to demolish any significant feature(s), the owner shall file an application for a special certificate of appropriateness with the planning and development services department, on a form prescribed by the director. The application shall detail the reasons why demolition is necessary and shall provide detailed plans for the reuse of the historic site.
  - a) When the Planning Director determines that the application is complete, the director shall schedule the application for public hearing before the HPC and cause notice of the public hearing to be given. If the application is determined to be incomplete, then the department shall request additional information by certified mail. In addition to all other provisions of this article, the HPC shall consider and make recommendation to the City Council the following criteria in evaluating applications for a special certificate of appropriateness for demolition of designated properties:
    - i. Is the structure of such interest or quality that it would reasonably meet national, state, or local criteria for designation as an historic structure or is so designated?
    - ii. Is the structure of such design, craftsmanship, or material that it could be reproduced only with great difficulty and/or expense?
    - iii. Is the structure one of the last remaining examples of its kind in the neighborhood, the county, or the region?
    - iv. Does the structure contribute significantly to the historic character of a designated district?
    - v. Would retention of the structure promote the general welfare of the City by providing an opportunity for study of local history, architecture, and design or by developing an understanding of the importance and value of a particular culture and heritage?

- vi. Are there definite plans for reuse of the property if the proposed demolition is carried out, and what will be the effect of those plans on the character of the surrounding area?
- b) The City Council shall consider the recommendation of the HPC at the next regularly scheduled public hearing by the time the public notice requirements can be satisfied, or as such time as is mutually agreed upon between the applicant and the Planning Director. Notice of the public hearing shall be given to the property owner(s) by certified mail and to other interested parties by an advertisement in a newspaper of general circulation at least ten days prior to the hearing. At the conclusion of the public hearing, the City Council shall, by written resolution grant, deny, or grant with conditions, the application. The resolution shall contain an explanation of the basis for the City Council's decision. Upon the filing of the resolution with the City clerk, the clerk shall send a certified copy of the resolution by registered mail to the applicant.
- c) The City Council may grant a special certificate of appropriateness to demolish with a deferred effective date of up to 12 months from the date of the council's decision. The effective date shall be determined by the council based upon the relative significance of the structure and the probable time required to arrange a possible alternative to demolition. During the demolition deferral period, the council may take such steps as it deems necessary to preserve the structure concerned, in accordance with the purposes of this section. Such steps may include, but shall not be limited to, consultation with civic 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. This deferral period would grant the opportunity for the acquisition of fee or less-than-fee interest in the property by a governmental unit, an organization, or by any other entity committed to the preservation, restoration, or rehabilitation of the structure(s). After the specified expiration date of the deferred special certificate of appropriateness, a demolition permit may be issued by the City Council at a public hearing.
- d) In connection with any certificate of appropriateness, standard or special, for demolition of buildings or improvements designated as historic landmarks or located within a designated historic district, the City Council may require at the owner's expense, salvage and preservation of specified classes of building materials, architectural details and ornaments, fixtures, and the like for reuse in restoration of other historic properties. The City Council may also require, at the owner's expense, the recording of the improvement for archival purposes prior to

demolition. The recording may include, but shall not be limited to, photographs and scaled architectural drawings.

#### F. Economic Hardship

1. Where, by reason of particular site conditions and restraints, or because of unusual circumstances applicable solely to the particular applicant property, strict enforcement of the provisions of this section would result in serious undue economic hardship that would amount to a taking of property without just compensation or, for properties producing income at the time of the application for a certificate of appropriateness, failure to achieve a reasonable economic return to the applicant, the City Council shall have the power to vary or modify adherence to this section; provided always that its requirements ensure harmony with the general purposes hereof and will not adversely affect the City.
  - a) In any instance where there is a claim of undue economic hardship, the owner shall submit, by affidavit, to the City Council at least 30 days prior to the public hearing, the following information:
    - i. For all property:
      - a. The amount paid for the property, the date of purchase and the party from whom purchased; and
      - b. The assessed value of the land and improvements thereon according to the two most recent assessments; and
      - c. Real estate taxes for the previous two years; and
      - d. Annual debt service, if any, for the previous two years; and
      - e. All appraisals obtained within the previous two years by the owner or applicant in connection with his purchase, financing or ownership of the property; and
      - f. Any listing of the property for sale or rent, price asked and offers received, if any; and
      - g. Any consideration by the owner as to profitable adaptive uses for the property; and
      - h. All cost estimates or reports relating to the demolition of the property obtained within the previous two years; and

- i. All cost estimates or reports relating to the rehabilitation or restoration of the property obtained within the previous two years; and
  - j. All reports relating to the engineering, architectural, or construction feasibility of rehabilitating or restoring the property obtained within the previous two years; and
  - k. All reports relating to the economic feasibility of restoring or rehabilitating the property obtained within the previous two years, including market studies.
- ii. For income-producing property:
  - a. Annual gross income from the property for the previous five years; and
  - b. Itemized operating and maintenance expenses for the previous five years; and
  - c. Annual cash flow, if any, for the previous five years.
- b) The City Council may require that an applicant furnish such additional information as the council believes is relevant to its determination of undue economic hardship. The owner shall permit access to the subject property for the purpose of inspections and/or appraisals required by the council. In the event that any of the required information is not reasonably available to the applicant and cannot be obtained by the applicant, the applicant shall file with his affidavit a statement of the information which cannot be obtained and shall describe the reasons why such information cannot be obtained. It shall be the applicant's evidentiary burden however to support its claim that the denial of a demolition permit will cause undue economic hardship.

G. Amendment or rescission of designation.

1. A historic designation pursuant to this Section may only be amended or rescinded by complying with the same procedures as the original approval. However, the Planning Director's report need only contain a recommendation to grant or deny the rescission or amendment, and the reasons therefore.
  - a) The HPC recommending rescission of the designation shall be based on competent and substantial evidence supporting the rescission.
  - b) Final approval of rescission shall come from the City Council.
  - c) If rescission is the result of a request by the property owner, or as a result of the demolition of the historic structure by the property owner, the City

Council shall revoke the ad valorem tax exemption as provided in the City Code.

#### H. Appeals

1. Appeals from decisions of the HPC, Planning Director or City Council under this article shall be pursuant to Chapter 102, Article 17 of the land development regulations, except for those appeals under Section 106.44.B.7. which pertain to national register nomination.
2. Variance. A variance from the term "architecturally similar" as defined in Section 106.40, which requires that an architecturally similar building shall have like characteristics in terms of location or setbacks on a lot, can be granted by the planning commission after notice and hearing as for other zoning variances and after the commission's consideration of the recommendation of the HPC favoring or opposing the variance.

#### I. Recognition of Historic structures, Sites, and Districts

1. At such time as a historic structure, site or district has been properly designated, the commission, in cooperation with the property owner, may cause to be prepared and erected on such property at City's expense, a suitable plaque declaring that such property is a historic structure, site or district.

### Section 106.44. - Procedures.

#### A. Local Designation

1. *Properties previously designated by county.* Properties designated by the county as of the date of City incorporation are hereby designated historic properties under this section.
2. *Initiation of historic designation process.* The designation process under this section shall be initiated by the submission of an application requesting historic designation to the department of planning and development services, on a form prescribed by the director, by either the owner of the proposed historic property, or his authorized agent. The applicant shall provide information which illustrates that the property meets the criteria for listing as set forth in this section. The information submitted must include sufficient preliminary information to enable staff's review for an initial determination that the property meets the minimum eligibility criteria. The proposal shall include a legal description of the property, a statement explaining the historic, architectural, archaeological, or cultural significance, photographs of the property, and any other materials or documents that may be used in evaluation of the subject site.
  - a) The Planning Director shall have 15 working days to determine if the application is complete. If the director finds that the application is not



complete, the director shall serve written notice to the applicant specifying the application's deficiencies. The director shall take no further action on the application unless the deficiencies are remedied.

- b) If the director or his designated representative fails to make a determination of completeness within 15 working days, the application is deemed complete.
  - c) Once the application is deemed complete, the director shall prepare a designation report with recommendations for submittal to the HPC, and advertise and schedule a public hearing for consideration by the HPC of the requested designation.
3. *Notice to owner.* Notice of a proposed designation shall be sent by certified mail at least 15 days prior to the designation hearing to the owner of the property proposed for designation, inviting the owner to participate in the designation hearing to discuss the meaning of designation, the advantages, both historically and financially, of historic preservation of the property, and to encourage the property owner to preserve the property consistent with its historic character and proposed designation.
  4. *Designation hearing.* Prior to making a recommendation for designation of any landmark or historic district to the City Council, the HPC shall hold a public hearing no sooner than 15 days and within 60 days from the date of the filing of an application for designation. Notice of the time and place, including a description of the proposed designation of the property and its location, shall be published in a newspaper of general circulation in the City at least ten days prior to the hearing. The HPC, owners and any interested parties may present testimony or documentary evidence at the hearing, which will become part of a record regarding the historic, architectural or archaeological importance of the proposed landmark or historic district. The record may also contain expert testimony, public comments, or other evidence offered outside of the hearing.
  5. *Action by the historic preservation commission on the proposed designation.* Following the conclusion of the public hearing, the HPC shall render its decision recommending approval or denial of a proposed historic landmark or historic district designation. If the HPC recommends approval of the designation, the HPC shall accurately describe all character-defining elements of the landmark or district.
  6. *Action by the City Council.* The City Council shall consider the proposed designation and recommendations of the HPC and the Planning Director and shall act to designate the property as historic, or reject the proposed designation by way of resolution. The City Council shall consider the recommendations at a public hearing. Notice of the public hearing shall be given to the property owner(s) by certified mail and to other interested parties by an advertisement in a

newspaper of general circulation at least ten days prior to the hearing. At the conclusion of the public hearing, the City Council shall, by written resolution grant, deny, or grant with conditions, the designation. The resolution shall contain an explanation of the basis for the City Council's decision. Upon the filing of the resolution with the City clerk, the clerk shall send a certified copy of the resolution by registered mail to the applicant.

#### B. National Register Nominations

The HPC upon the City being granted certified local government (CLG) status will expand its powers and duties to include the review of national register nominations. Review of national register nominations is a function of a CLG and shall be governed by "Florida Guidelines for Certified Local Governments".

1. The Planning Director shall, within 30 days after receipt of a national register nomination, determine whether the nomination is technically complete and notify the nomination's sponsor of such determination.
2. If the nomination is technically complete, the Planning Director shall, at least 30 days by no more than 75 days prior to the HPC meeting at which the proposal is to be considered, notify the following:
  - a) Owner(s) of record.
  - b) Appropriate local official(s).
3. Nomination proposals to be considered by the HPC shall be on file in the City department of planning and development services for at least 30 days but no more than 75 days prior to the HPC meeting at which they will be considered. A copy shall be made available to the public upon written request to the City clerk.
4. Nomination proposals shall be considered by the HPC at a public meeting, and all votes shall be recorded and made a part of the permanent record of that meeting. All nominations proposals shall be forwarded, with a record of official action taken by the HPC and the recommendation of the City Council, to the state historic preservation officer within 30 days of the meeting at which the nomination is considered. If either the HPC or City Council or both support the nomination, the state historic preservation officer shall schedule the nomination for consideration by the Florida Review Board for the National Register as part of the normal course of business at the next regular meeting.
5. If both the HPC and City Council recommend that a property not be nominated to the national register, the state historic preservation officer shall take no further action on the nomination unless an appeal is filed with the state historic preservation officer. Any reports and recommendations that result from such a situation shall be included with any nomination submitted by the state historic preservation officer to the U.S. Secretary of the Interior.

6. Any person or organization which supports or opposes the nomination of a property to the national register shall be afforded the opportunity to make its views known in writing. An owner(s) of a private property who wish to object to the nomination shall provide the HPC with a notarized statement certifying that the party is the sole or partial owner of the property as appropriate. All correspondence regarding a nomination proposal shall become part of the permanent record concerning the proposal and shall be forwarded with the approved proposals to the state historic preservation officer.
7. Appeals. Any person may appeal the decision of the HPC in its review of the national register nomination. Appeals should be directed to the state historic preservation officer in writing within 30 days of the decision of the HPC. Nominations or proposals which have been appealed shall be considered by the Florida Review Board for the National Register as part of the normal course of business at its next regular meeting. If the opinion is that the property or properties is or are significant and merit nomination to the national register, the state historic preservation officer shall notify the HPC within 30 days of the national register review board meeting of its intent to forward the nomination to the national register with a recommendation that the property or properties be listed.

C. Other regulations applicable to all development proposed.

1. Development activities shall include precautions necessary to prevent the following adverse impacts to historic or archaeological sites of significance:
  - a) Destruction or alteration of all or part of such site;
  - b) Isolation from or significant alteration to its surrounding environment;
  - c) Introduction of visible, audible, or atmospheric elements that are out of character with the property or significantly alter its setting;
  - d) Transfer or sale of a site of significance without adequate conditions or restrictions regarding preservation, maintenance, or use; and
  - e) Other forms of neglect resulting in its deterioration.

D. Mitigation plan required.

1. Development impacting a historic or archaeological site or structure shall include a site plan that mitigates any potential adverse impacts. The site plan shall address the following:
  - a) Destruction or alteration of all or part of such site;
  - b) Isolation from or alteration of the surrounding environment;

- c) Introduction of visual, audible, or atmospheric elements that are out of character with a property or alter its setting;
- d) Transfer or sale of the site of significance without adequate conditions or restrictions regarding preservation, maintenance, use or reuse;
- e) Vegetation removal shall not be permitted on a historic or archaeological site unless the vegetation to be removed is a part of a duly authorized scientific excavation or is a part of an approved development plan; and
- f) Other forms of neglect resulting in resource deterioration.

Section 106.45. – Interim Control.

- A. Upon the filing of an application for designation, until such time as a final decision has been made by the City Council, no individual or private or public entity shall:
  - 1. Erect any structure on the subject property; or
  - 2. Alter, restore, renovate, move or demolish any structure on the subject property.

Section 106.46. – Penalties for Violations.

A. Ordinary Maintenance

- 1. Nothing in this article shall be construed to prevent ordinary maintenance, repair, or improvement which does not involve a change of design, appearance, or material, or prevent ordinary maintenance of landscaping features.
- 2. Where the HPC determines that a designated historic building, structure, object, or site is endangered by lack of maintenance and repair, it shall notify appropriate officials of the City, so that the City may seek correction of such deficiencies under authority of applicable laws and regulations.
- 3. In the event the building official determines that any designated historic building or structure is unsafe pursuant to the City's adopted building code, he or she shall immediately notify the HPC of such findings. Where feasible within applicable laws and regulations, the building official shall endeavor to have the building or structure repaired rather than demolished and shall take into consideration any comments and recommendations of the HPC. The HPC may take appropriate actions to effect and accomplish preservation of such structure including, but not limited to, negotiations with the owner and other interested parties, provided that such actions do not interfere with procedures in the building code.

B. Demolition by neglect

- 1. Affirmative maintenance required. The owner of a property designated pursuant to this section either individually or as a contributing part of a district shall comply

with all applicable codes, laws and regulations governing the maintenance of property. It is the intent of this section to preserve from deliberate or inadvertent neglect the exterior features of such properties and the interior portions thereof when maintenance is necessary to prevent deterioration and decay of the property. All such properties shall be preserved against such decay and deterioration and shall be free from structural defects through prompt corrections of any of the following defects:

- a) Facades which may fall and injure the subject property, adjoining property, or members of the public.
- b) Deteriorated or inadequate foundation, defective or deteriorated flooring or floor supports, deteriorated walls or other vertical structural supports.
- c) Members of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split or buckle due to defective material or deterioration.
- d) Deteriorated or ineffective waterproofing of exterior walls, roofs, foundations or floors, including broken windows or doors.
- e) Any fault or defect in the property which renders it structurally unsafe, insufficiently protected from weathering, or not properly watertight.

C. *Enforcement.* This chapter shall be enforced by the code enforcement special magistrate. However, apparent violations certified by the special magistrate or by the city manager as not being susceptible to effective resolution by the special magistrate, whether due to the emergency nature of the violation or whether due to limitations inherent in the statutory processes and enforcement capabilities of the special master, shall be referred to the state attorney for prosecution and penalty or shall be referred to a code enforcement officer for citation for civil infraction and penalty, as provided Chapter 10, Section 10-6. Each day upon which work is performed in violation of the terms of this chapter shall be considered a separate violation.

D. *Penalty.* Any person who knowingly causes any major alteration of a historic building, which major alteration is in violation of the terms of this Article, may be subject to suspension or revocation of his contractor's license per Chapter 6, Article 1, Section 6-1 of the Code of Ordinances.

E. *Injunctive relief.* Nothing in this section shall be construed to limit any civil rights the city may have to seek from any court of competent jurisdiction injunctive relief requiring full compliance with the terms of this chapter. The city may maintain an action for injunctive relief to cause, where possible, the complete or partial restoration or reconstruction of any historic buildings altered in violation of this chapter.

#### Section 106.47. - Severability.

- A. If any provision of this Article or the application thereof to any person or circumstances is held invalid, the remainder of this Article and the application of such provisions to other persons or circumstances shall not be affected thereby.