

- b. Decks at the ground level that are not visible from any street and do not require alterations to any structure.
  - c. Installation of new doors that are substantially similar in size and style to the original.
  - d. Installation of fencing located behind any street façade.
  - e. The painting of any material or surfaces, other than unpainted masonry, stone, brick, terracotta and concrete, in a color appropriate to the architectural style or period of original construction.
  - f. The replacement of front porch columns with columns matching the original in style, size, and material.
  - g. The replacement of a roof with one of the same material, size, and color.
  - h. The repair of wooden siding with wood which duplicates the original appearance.
  - i. Installation of skylights not visible from any street front.
  - j. The replacement of windows with windows substantially similar in size and style to the original.
  - k. Mechanical systems including heat and cooling equipment and gutters.
  - l. One accessory structure under 100 square feet in rear yard.
  - m. Exterior lighting (no spot lights allowed).
  - n. Replacement awnings that are either same color and style as the original awnings or that otherwise comply with this article and the design standards and guidelines manual.
  - o. Signs such as replacement signs or new tenant signs as long as such signs comply with this article and the design standards and guidelines manual.
- (3) ARHPB review is not required for the maintenance of any exterior building features when such work exactly reproduces the existing design and is executed in the replacement of existing material.
  - (4) A certificate of approval shall not be required for general or occasional maintenance. Occasional maintenance will include, but not be limited to, lawn and landscaping care and minor repair that restores or maintains the historic site or current character of the building or structure. A certificate of approval shall not be required for any interior alteration that does not affect the exterior appearance of the structure.
  - (5) Any exterior alteration or new construction which is not visible from any street or roadway may receive a certificate of approval from the city's architectural staff without action from ARHPB when an applicant complies with the design guidelines of ARHPB.
  - (6) The ordinance designating a landmark, landmark site or historic district may designate additional exceptions to a certificate of approval or ARHPB review.
  - (7) In any instance where a certificate of approval for demolition has been denied, the applicant may reapply upon the expiration of 12 months from the date of the initial decision of ARHPB denying the certificate of approval, regardless of whether the applicant appeals the initial decision.
  - (8) City projects will adhere to the design standards and guidelines of this ordinance and do not require a certificate of approval.
  - (9) Any city staff determination as to whether ARHPB review of an application is required or as to whether a certificate of approval for a particular project is required may be appealed to ARHPB within 15 days of such decision, at which time ARHPB shall schedule a de novo hearing

on the decision at its next regular meeting scheduled at least 15 days after receipt of the appeal.

(Ord. No. 10-05, § 2(Exh. 1), 1-14-10)

### **Sec. 98-194. Demolition.**

(1) *Criteria for reviewing demolition applications.* Demolition of an historic or contributing structure or architectural feature constitutes an irreplaceable loss to the quality and character of the historic district. Therefore, no structure within the historic district shall be demolished or removed, in whole or in part, until after a certificate of approval for demolition has been approved by ARHPB based on the following criteria:

- (a) The structure is of such interest or quality that it would reasonably meet national, state or local criteria for designation as a historic landmark.
- (b) The structure is of such design, craftsmanship or material that it could be reproduced only with great difficulty and/or expense.
- (c) The structure is one of the last or few remaining examples of its kind in the city the county, or the region.
- (d) The structure contributes to the historic character of a designated district.
- (e) Retention of the structure promotes the general welfare of the city by providing an opportunity for the study of local history, architecture, and design, or by developing an understanding of the importance and value of a particular culture and heritage.
- (f) The historic, architectural or environmental significance of the structure to the overall ensemble of structures within the historic district and the importance of the structure to the integrity of the historic district.
- (g) There are definite plans for reuse of the property if the proposed demolition is carried out, a funding commitment appropriate for such reuse plans, a reasonable timeframe for project initiation and completion, and an explanation of what the effect of those plans will have on the

architectural, historical, archaeological, social, aesthetic or environmental character of the historic district and surrounding area.

- (h) Whether reasonable measures can be taken to save the structure from further deterioration, collapse, arson, vandalism or neglect.
- (i) Any determination by the building official that the structure is an imminent hazard to public safety.
- (j) The economic hardship imposed on the owner if the application for certificate of approval for demolition is denied.
- (k) Any measures that have been taken to prevent the structure from deteriorating, such as performance of normal maintenance and repairs and provision of normal tenant improvements. In addition, whether the structure was willfully or negligently allowed to deteriorate.
- (l) The extent of the demolition to be performed.

(2) *Reconstruction.* Local historic landmarks or contributing structures within the historic district that have been destroyed by fire or other natural disaster may be ameliorated by efforts to reconstruct the resource. Reconstruction means the 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. ARHPB shall encourage reconstruction when appropriate.

(3) *Waiting period.* If a certificate of approval is issued by ARHPB for demolition of a contributing structure or structure currently being considered by ARHPB for contributing status, the certificate of approval must include the condition that the applicant must wait for a total period of up to 90 days before the applicant may perform such demolition or relocation in accordance with this article. ARHPB will specify a specific time frame for demolition in the certificate of approval for demolition.

During this period, ARHPB may negotiate with the owner of the landmark and with any other

party to find a means of preserving the property including the acquisition by gift, purchase, exchange or otherwise of the property or any interest therein.

(a) *Extension of waiting period.* To facilitate negotiations or allow for further rehabilitation efforts, ARHPB may extend the waiting period for demolition for up to six months. Such six-month maximum waiting period may once be extended by the city commission for an additional period of up to, but not exceeding 90 days, upon a recommendation from ARHPB that:

- i. There is a program or project in progress which may result in acquisition of the property for the purpose of its preservation and/or restoration; and
- ii. There is a reasonable basis to believe that the program or project will be successful.

(b) *Reduction / waiver in waiting period.* ARHPB may reduce or waive the waiting period required by this section in any case where the owner would suffer extreme hardship, not including loss of profit, unless a reduction in the required period were allowed. ARHPB shall also have the discretionary authority to waive all or any portion of the required waiting period provided that the proposed alteration, remodeling, relocation or change of use is undertaken subject to conditions agreed to by ARHPB insuring the continued maintenance of the historical, architectural, or cultural integrity and character of the property.

(4) *Economic hardship.* Economic hardship shall be determined in accordance with this section. When a claim of extreme economic hardship is presented, proof shall be submitted that the applicant cannot realize a reasonable and beneficial use of or economic return from the property. If the property is residential and nonincome producing or is an accessory structure, the owner shall not be required to prove economic hardship. In the case of a demolition of a structure where the principal facades remain intact, the owner shall

not be required to prove economic hardship. ARHPB shall make findings based on each of the following factors provided by the applicant:

- (a) The marketability or salability of the property, considered in relation to any listing of the property for sale or rent, price asked, and offers received, if any, within the previous three years.
- (b) The feasibility of adaptive or alternative uses for the property that can earn a reasonable economic return for the property as a report from a licensed engineer or architect with experience in rehabilitation, as to the structural soundness of any structures on the property and their suitability for rehabilitation will be provided.
  1. An estimate of the cost of construction, alteration, demolition, or removal, and estimate of any additional cost that would be incurred to comply with the recommendation and decision of ARHPB concerning the appropriateness of proposed alterations.
  2. The estimated market value of the property in the current condition, after completion of the demolition, after completion of the proposed construction, and after renovation of the existing property for continued use.
  3. The testimony of an architect, developer, real estate consultant, appraiser, or other real estate professional experienced in rehabilitation as to the economic feasibility of rehabilitation or use of existing structures on the property.
  4. Proof of the financial ability to complete the replacement project.
  5. The current fair market value of the property, as determined by at least two independent appraisers certified by the State of Florida.
- (c) Any other information the applicant or ARHPB finds is relevant to demonstrate extreme economic hardship or the lack thereof.

The applicant shall submit all necessary materials to the planning department, so that staff may review and comment and consult on the case. Staff comments and any other comments shall be forwarded to ARHPB for consideration and review and made available to the applicant for consideration prior to the meeting. ARHPB may require that an applicant furnish such additional information that is relevant to its determination of extreme economic hardship. Staff may also furnish additional information as ARHPB or staff believes is relevant and it shall be made available to the applicant and ARHPB for consideration prior to the hearing.

(5) *Demolition by neglect.* Every owner of a contributing structure or a structure being considered by AHRPB for contributing status within the historic district shall not allow such structure to fall into a state of disrepair which may result in the deterioration of any exterior appurtenance or architectural feature so as to result in a threat to continued existence of such structure. Examples of the type of disrepair prohibited include, but are not limited to:

- (a) The deterioration of exterior walls or other vertical supports;
- (b) The deterioration of roofs or other horizontal members;
- (c) The deterioration of exterior chimneys;
- (d) The deterioration or crumbling of exterior plasters or mortar;
- (e) The ineffective waterproofing of exterior walls, roofs and foundations, including broken windows or doors;
- (f) The deterioration of any feature, interior or exterior, so as to create or permit the creation of any hazardous or unsafe condition or conditions.

In the event that a contributing structure or a structure being considered by ARHPB for contributing status is in disrepair and is in the course of being "demolished by neglect," the owner of record shall be notified of the condition of the structure and the items that need repair via certified or registered mail. ARHPB shall request a meeting with the owner or the tenant of the

building and ARHPB shall present ways to improve the condition of the property or otherwise protect any contributing structure or a structure under consideration for contributing status. If the owner or tenant fails to appear at such meeting or fails to initiate corrective action within 30 days after such meeting, ARHPB shall notify the appropriate code inspector of the violation or initiate or otherwise recommend any other corrective action deemed necessary as authorized in section 98-198 of this Code.

(6) *Emergency demolition.* Notwithstanding the existence of a valid certificate of approval, the city reserves the right to initiate and carry out its own demolition of a structure pursuant to chapter 18, article II, division 5 of this Code. If the structure to be demolished is a contributing structure or a structure currently being considered by ARHPB for contributing status, the following additional conditions must be met prior to demolition:

- (a) The building official must consider and explore alternatives to demolition, including but not limited to repair, renovation, and any other options. After such consideration, the official must determine, in writing, that such options, if any, are either impractical or are otherwise not feasible. Such written opinion shall document the reasons as to why demolition is necessary under the circumstances, any and all options considered, and the reasons as to why such options are impractical or otherwise unfeasible;
- (b) The building official must document in writing the emergent circumstances and/or threat of imminent harm warranting demolition.
- (c) The building official responsible for permitting the demolition shall notify the community development department prior to demolition and request input concerning alternatives to demolition;
- (d) Prior to demolition, the building official shall comply with the documentation requirements of section 98-194(8) of this Code.

An emergency demolition conducted pursuant to this subsection shall not relieve a property owner or agent thereof of liability or responsibility for demolition by neglect as provided for in section 98-194(5) of this Code.

(7) *Permits.* Prior to the recommendation of demolition, the applicant shall be required to obtain a building permit for new development based on the standards set forth in this article. Once the city has approved the permit for replacement construction, the demolition permit may be issued. When the permit is for a contributing structure or structure being considered by AHRPB for contributing status, absent exigent circumstances permits shall not be issued until all plans for the site have received all the necessary approvals.

(8) *Documentation requirements.* Every contributing structure or structure being considered by AHRPB for contributing status in both the residential and the commercial historic districts that is approved for demolition by ARHPB or is determined by the building official to be an imminent hazard and is to be subsequently demolished, shall be documented prior to demolition consistent with the State of Florida Bureau of Historic Preservation Division of Historic Resources' Documentation Requirements For Buildings Proposed For Demolition and Standards For Architectural Documentation. The documentation shall be submitted to the historic preservation board to be kept on file by the city. This documentation, which usually consists of dimensioned drawings, photographs and written data, provides important information on a property's significance for use by the city and ARHPB to justify the necessity for demolition. A demolition application form shall be filled out and reviewed by the city along with all of the other required information before a request for demolition will be reviewed.

(9) *Partial demolition.* Projects meeting the definition of "partial demolition" as set forth in this article shall not be considered demolitions subject to this section, but instead shall be reviewed and considered in the same manner as alterations to a property or structure within the historic district.

(10) *Noncontributing structures.* Owners of non-contributing structures or structures that are not currently being considered by ARHPB for contributing status shall not be required to show economic hardship in applying for a certificate of approval for demolition for such structures. Further, certificates of approval for demolition of noncontributing structures or structures not currently being considered for contributing status shall be liberally granted to owners of such structures when:

- (a) The structure is in poor or otherwise substandard condition;
- (b) The structure is in general nonconformance with the requirements of this article or the design standards and guidelines manual; and
- (c) The owner can demonstrate definite plans for reuse of the property if the proposed demolition is carried out, a funding commitment appropriate for such reuse plans, a reasonable timeframe for project initiation and completion, and an explanation of what the effect of those plans will have on the architectural, historical, archaeological, social, aesthetic or environmental character of the historic district and surrounding area.

(Ord. No. 10-05, § 2(Exh. 1), 1-14-10)

### **Sec. 98-195. Sign standards for commercial projects.**

Properties within the historic district shall comply with the city's adopted sign regulations contained in the city's land development regulations, chapter 102 as well as the design standards set forth for commercial structures in this article

In addition, any commercial project that is proposing new construction or a remodel/renovation that will affect exterior sign graphics will be required to submit a conceptual sign plan for the location of all anticipated signs on the building exterior, awnings, or signs that may be an integral part of the building structure.

Any signs that will be installed shall be consistent with the city's sign guidelines and requirements for the historic downtown area. Any vari-

ances or deviations will need to be reviewed and approved by the city's planning and zoning board. Any signs, such as; building names or building plaques, will be made part of the building elevation and/or conceptual sign plan that will be reviewed by the ARHP board. Any special style signs, such as; marquee signs that are an integral part of the building, will also be included with any building elevations to ensure that the scale and size of these elements complements the building elevation that is proposed. The style lettering included will be consistent with the sign regulations. No sign shall cover existing architectural detailing on a building. New signs should be capable of being removed without causing damage to the building. Fasteners shall go in mortar joints to avoid damaging bricks.

(Ord. No. 10-05, § 2(Exh. 1), 1-14-10; Ord. No. 13-19, § 2, 5-23-13)

### **Sec. 98-196. Outdoor storage.**

(1) Outdoor storage visible from any right-of-way shall not be allowed in the historic district.

(2) RVs and boats shall be parked in areas not visible from the public right-of-way, or screened by a six-foot-high fence. Boats and RVs may be parked in the rear yard of property behind the house. Any other permanent storage locations must be reviewed on a case-by-case basis by the planning and development division staff. However, it is the intent of this regulation to facilitate for residents of the historic district the enjoyment and use of recreational vehicles and boats while still maintaining the historical appearance of the district. Additionally, RVs and boats may be parked in front of residential structures for not more than two days per calendar week.

(Ord. No. 10-05, § 2(Exh. 1), 1-14-10)

### **Sec. 98-197. The Americans with Disabilities Act (ADA).**

The ADA extends comprehensive civil rights to individuals with disabilities. Historic properties, including buildings, sites and landscapes, are not exempt from the ADA and must comply with its regulations. Historic properties often can be made

accessible while preserving their architectural character through careful planning and sensitive design.

- (1) A three-step approach is recommended to identify and implement accessibility modifications that will protect the integrity and historic character of historic properties:
  - a. *Review the historical significance of the property and identify character-defining features.* Thoroughly inspect and evaluate the character defining features, materials and spaces of a property before upgrading it for handicap accessibility. Significant materials, the form and style of the property, the principal elevations, major architectural and landscape features and the principal public spaces should be the items identified for preservation.
  - b. *Assess the property's existing and required level of accessibility.* While inspecting a property, features, materials, and spaces of less significance to the historic character of the property should also be identified. Nonsignificant spaces, secondary pathways, additions, previous altered areas, utilitarian spaces, and service areas can usually be modified without threatening or destroying a property's historical significance.
  - c. *Evaluate accessibility options within a preservation context.* Modifications for handicap accessibility should be compatible with the property. Modification should be in scale with the property, visually compatible in terms of their design and materials, but be differentiated from the original. They should be reversible so that if removed in the future, the essential form and integrity of the property would be unimpaired.
- (2) Congress recognized the national interest in preserving historic properties when it

enacted the ADA. Congress established alternative minimum requirements for qualified historic properties that cannot physically be made accessible without threatening or destroying their significance. Modifications for handicap accessibility should be compatible with the property and reversible. They should be in scale with the property, visually compatible in terms of their design and materials, but be differentiated from the original. They should be reversible so that, if removed in the future, the essential form and integrity of the property would be unimpaired.

- (3) Properties listed in or eligible for listing in the National Register of Historic Places and those designated under state or local law are qualified historic properties. Owners of qualified historic properties must first consult with the state historic preservation officer (SHPO) before using the alternative minimum requirements. If the SHPO determines that compliance with the full accessibility requirements would threaten or destroy the significance of a building or facility, the following alternative minimum requirements may be used:
- a. One accessible route must be provided from a site access point to an accessible entrance. Using a ramp with a 1:6 slope is permissible for a run of up to two feet.
  - b. One accessible entrance must be provided. If it is not possible to make the public entrance accessible, then an alternative, unlocked entrance is acceptable. Directional signage at the primary entrance and a notification system at the accessible entrance must be provided.
  - c. If toilets are provided, only one restroom must be accessible and may be designated unisex.
  - d. Public spaces on the same level as the accessible entrance must be ac-

cessible, and other public levels should be accessible whenever practical.

- e. Displays and written information should be located where a seated person can see them.
  - f. Horizontal signage should be no higher than 44 inches above the floor.
- (4) In limited circumstances, if it is determined in consultation with the SHPO that compliance with the alternative minimum requirements would also threaten or destroy the significance of a historic building, alternative methods of access may be used. The alternative methods of accessibility that may be used to make a buildings program and activities accessible include:
- a. Using audio-visual materials and devices to show inaccessible areas of a historic property.
  - b. Assigning persons to guide individuals with disabilities into or through inaccessible areas of a historic property.
  - c. Adopting other innovation methods.
- (Ord. No. 10-05, § 2(Exh. 1), 1-14-10)

### **Sec. 98-198. Enforcement; civil remedies**

(1) Except as otherwise provided herein, the requirements of this chapter shall be enforced to the extent that the following enforcement mechanisms may be applicable:

- (a) By referral to or on the initiative of the code inspector or officer pursuant to the authority granted by F.S. ch. 162, pt. I, and chapter 2, article II, division 2 of this Code; however, in no instance shall a civil penalty of less than \$100.00 per violation per day of violation be imposed;
- (b) By citation for civil penalties pursuant to the authority granted by F.S. ch. 162, pt. II, and chapter 2, article II, division 3 of this Code; however, in no instance shall a civil penalty of less than \$100.00 per violation per day of violation be imposed;

- (c) Upon the determination of the city commission, by a civil action in accordance with F.S. § 162.30; and/or
- (d) Upon the determination of the city commission, by an action for injunctive relief in a court of competent jurisdiction.

(2) *Contractor violations:* Violations by contractors or other persons performing work on the property in contravention of the requirements of this article may be assessed the following penalties or fines pursuant to the city's ordinary code enforcement procedures in accordance with F.S. ch. 162, pt. I, and chapter 2, article II, division 2 of this Code, or, where such enforcement would prove ineffective or otherwise impractical, via F.S. § 162.30.

- (a) Violations committed by a contractor or other agent hired by or working on behalf of the property owner to perform work or by a property owner who performed such work him/herself on any structure or property regulated pursuant to this chapter are hereby deemed irreparable and irreversible, and shall be assessed as follows:
  - 1. One thousand dollars for a first violation;
  - 2. Two thousand dollars for a second violation; and
  - 3. Three thousand dollars civil fine or penalty for a third or subsequent violation, and the violator shall be prohibited from applying for a certificate of approval for work not associated with the correction of the violation for a period of three months.

Additionally, a violator shall be prohibited from applying for any certificate of approval until such civil fine or penalty awarded or assessed pursuant to this section has been paid in full. Prohibitions against application for a certificate of approval contemplated in this section shall not become effective until the judgment or assessment requiring such prohibition becomes final.

- (b) For the purposes of this subpart, each unauthorized alteration of each separate

historic element regulated by this article shall constitute a separate violation. In the event that a property owner has performed the work him/herself, the fines or penalties assessed pursuant to this section shall be in addition to any fines or penalties related to nonconforming conditions on the subject property or other continuing violations of this chapter.

- (c) Persons holding a contractor's certification or license shall, upon an assessment or award of an administrative fine or civil penalty pursuant to this subpart, shall be referred to the construction trades qualifying board, and/or the appropriate state licensing board, for further enforcement.
- (d) Any civil action to be initiated in a court of competent jurisdiction for the collection of monetary civil penalties assessed pursuant to this subsection must be referred to and approved by the city commission prior to initiation of such action.

- (3) In cases where a structure has been either demolished or relocated in violation of this chapter, or where any building has to be demolished by the city pursuant to lawful condemnation procedures and the owner of said structure has received two or more notices from the city regarding neglect or failure to maintain the structure as herein required, a civil penalty shall be assessed in an amount equal to 30 percent of the market value of the property and structure(s) prior to its demolition, however this civil penalty shall be no less than \$10,000.00. This civil penalty shall be in addition to and separate from any costs incurred by the city in removal of any structure and otherwise recoverable from the property owner. Additionally and separate from any civil penalty provision in this section, there shall be no certificate of approval issued for new development on the subject property for a period of one year from the date the city's judgment for civil penalties has become final, unless and only when such certificate of approval is issued to correct and repair a demolition in whole or in part. The ARHPB must refer matters to be assessed pursuant to this provision to the city commission for final approval