

## CHAPTER 8

# HISTORIC DISTRICTS AND THE AMELIA RIVER WATERFRONT COMMUNITY REDEVELOPMENT AREA

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## 8.00.00 GENERAL PROVISIONS

### 8.00.01 Intent

It is declared as a matter of public policy that protection, enhancement, perpetuation and use of sites of aesthetic, archaeological, architectural, cultural, historical and paleontological merit or value is in the interests of the health, prosperity, safety and welfare of the people of Fernandina Beach. The City Commission finds that the irreplaceable loss of these resources to the community would detrimentally affect the community as a whole. It is therefore the intent of this chapter to:

- A. Effect and accomplish the protection, enhancement and perpetuation of buildings, structures, improvements, sites, districts, landscape features, and archaeological and paleontological resources that represent distinctive elements of the City's architectural, cultural, economic, natural, political, prehistoric, religious, scientific, and social history;
- B. Safeguard the City's architectural, cultural, economic, natural, political, prehistoric, religious, scientific and social heritage, as embodied and reflected in such structures, sites, and districts;
- C. Foster awareness and pride in the accomplishments and events of the City's past;
- D. Protect and enhance the City's attraction to residents, tourists, and visitors, and serve as an economic stimulus to business and industry;
- E. Stabilize and improve property values and encourage compatible redevelopment;
- F. Enhance the visual and aesthetic character of the City; and
- G. Promote the use of individual structures, sites, and districts for the education, leisure, and welfare of the people of Fernandina Beach.

### 8.00.02 Purpose

In addition to protecting and preserving the historic, cultural and archaeological resources of Fernandina Beach, the City Commission declares its intention to maintain the City of Fernandina Beach Certified Local Government status with the Florida Division of Historic Resources. The City shall comply with the rules and regulations of the Division of Historic Resources pursuant to the Certified Local Government program.

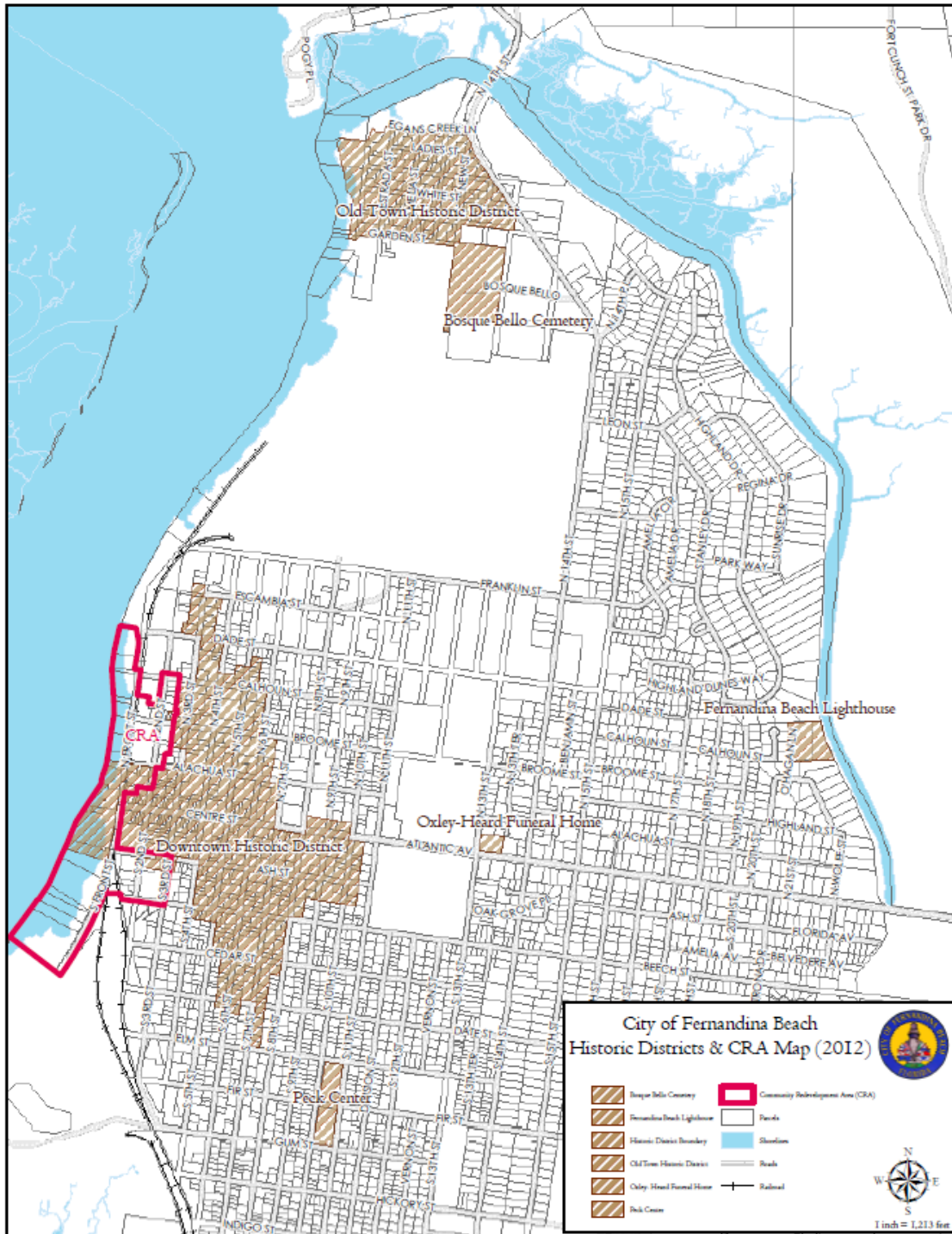
### 8.00.03 Relationship to Comprehensive Plan

The following standards implement Goal 11: Historic Preservation Element of the Fernandina Beach Comprehensive Plan to identify, preserve, and protect historic and cultural resources within the City.

### 8.00.04 Historic District and Community Redevelopment Area boundaries.

- A. Historic district boundaries are established in City of Fernandina Beach ordinances 526, 749, 846, 95-12, 97-24, and 2010-24.
- B. Community Redevelopment Area boundaries are established in City of Fernandina Beach ordinances 2004-33, 2004-71, 2004-145, 2005-91, and 2005-113.

Figure 8.00.04. Map of Historic District and CRA Boundaries



## 8.01.00 Standards for Development in the Historic Districts and Community Redevelopment Area

### 8.01.01 Historic District Overlays

#### 8.01.01.01 Standards for Development in the Historic District Overlays

- A. The review of proposed development within the Historic District Overlays shall be based upon the latest edition of *Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings* from the U.S. Secretary of Interior.
- B. The review of proposed development within the Historic District Overlay shall also be based upon compliance with the Downtown Historic District Guidelines, dated December 1999, as amended from time to time. The review of proposed development within Old Town shall be based upon compliance with the Old Town Preservation and Development Guidelines, dated June 1999, as amended from time to time.
- C. In addition to standards applicable to the underlying zoning district, new construction within the Historic District Overlay shall be compatible with the existing character of the landmark or the district. Compatible design means architectural design and construction that will fit harmoniously into the district or the landmark site. New construction shall be compatible in scale, materials, and quality of construction with adjacent buildings and structures that have been designated.
- D. The following features shall be considered by the Historic District Council in the evaluation of proposed new construction, as such features comply with the guidelines referenced in Section 8.01.01.01(A) and (B) above:
  1. Scale, including height and width;
  2. Setbacks;
  3. Orientation and site coverage;
  4. Alignment, rhythm, and spacing of buildings;
  5. Form and detail, considering the link between old and new buildings;
  6. Maintaining materials within the district or on the landmark site;
  7. Maintaining quality within the district or on the landmark site;
  8. Facade proportions and window patterns;
  9. Entrances and porch projections;
  10. Roof forms; and
  11. Horizontal, vertical, or non-directional emphasis.
- E. Fences proposed within designated historic districts shall be compatible with the historic style and character of the district, shall not be vinyl, and shall require a certificate of appropriateness, as set forth in Chapter 11.

#### 8.01.01.02 Specific Requirements within the OT-1 and OT-2 Zoning Districts

- A. A peonia is a lot within the Old Town Historic District. The peonia lot is 46.5 feet by 93 feet or 4,324.5 square feet.
- B. Construction of a dwelling unit on a media (one-half (1/2) of a peonia) peonia shall require that such media peonia be joined with an abutting media peonia or peonia in order to comply with the maximum density established in Section 4.01.01.
- C. General requirements
  1. Guidelines adopted by reference: The Old Town Preservation and Design Guidelines are hereby adopted by reference and incorporated herein.

2. Purpose

In the Old Town Historic District, the major emphasis is on building placement according to the historic plan and appropriate scale and construction, rather than architectural styles. Building form is discussed in the context of building typology rather than architectural styles. Typological discussions concentrate on the architectural elements that make a building compatible with the context of Old Town. Variances to the guidelines may be granted based on architectural merit. These regulations do not supersede existing codes covering health and safety issues.

3. Building types

- a. A primary building is defined as the principal unit of occupancy. While this usually refers to a private dwelling unit, it also applies to appropriate commercial buildings allowed in the OT-2 zoning district.
- b. Outbuildings are ancillary to the primary building in size and degree of occupancy. Outbuildings may be attached by connecting elements or remain detached. Outbuildings include, but are not limited to, garages, storage sheds, greenhouses, workshops, gazebos, and playhouses.
- c. Connecting elements are those architectural components that link primary and outbuildings with each other or act as a transition to the landscape. Connecting elements are considered to be enclosed spaces that are not permanently conditioned. Connecting elements create openness and give human scale to the building elements and allow owners to take advantage of the climate. Connecting elements include, but are not restricted to, porches, pergolas, colonnades, loggias, breezeways, and carports. The design of connecting elements shall be compatible with the typology and scale of the building elements; however, these elements can take on many inventive forms to achieve this result. Additions of connecting elements to registered historic structures must be taken on with great care from both an architectural and technical point of view.
- D. The total lot coverage of all building elements on one (1) peonia shall not exceed forty-five (45) percent.
- E. No more than one (1) primary building shall be placed on one (1) peonia.
- F. The number of outbuildings is limited by the total square footage requirements and the dimensions set out for these buildings but not by number.
- G. The space between an outbuilding and a primary building shall be a usable space of not less than five (5) feet. The use of connecting elements to link primary and outbuildings with indoor-outdoor space is strongly encouraged. Connecting elements and landscape elements are excluded from building separation requirement to encourage the design of spaces that take advantage of the climate. Thus, enclosed square footage may be easily expanded by the precise use of connecting elements such as porches and breezeways.
- H. The area of a tower is included in the calculation of the total allowable area of the primary building. A minimum of twenty-five (25) percent of the tower shall not be permanently conditioned space, typically the upper space opening to the sky and surrounding view.
- I. Garages and outbuildings that house more permanent types of occupancy, such as an accessory dwelling, shall not exceed 500 square feet in area, per level, shall not exceed 24 feet in height, shall not contain a kitchen or kitchenette, and shall not be rented out. The area of all other out buildings is limited to 350 square feet and shall not exceed 16 feet in height.

J. Nonresidential structures shall have sites of sufficient area for the structures to meet minimum requirements in this section.

K. Lot visibility corridors

The term "visibility corridor" is used in place of "setbacks" to emphasize the spatial effect of building placement. Careful siting of properly scaled building elements on a lot ensures that the historic lot divisions remain visible regardless of the architectural style or number of buildings that exist within the City at any given time. The visibility corridors are subdivided into frontage corridors, side yard corridors and mid-lot corridors.

1. The frontage corridor is a lot line with minimum setback of five (5) feet. This encourages the use to define the private space of the lot and the public space of the street. Outbuildings shall not be located on the frontage portion of peonias or the corner media peonia lots.
2. For side yard corridors there shall be a required minimum setback of five (5) feet separating lots on the north-south orientation. If two (2) or more adjacent properties are owned, then the corridor dimensions are cumulative. Primary and outbuildings shall not cross lot lines without the use of an open space or connecting element that maintains the dimensions of the side yard corridor.
3. Mid-lot corridors shall have a minimum setback of five (5) feet. This setback makes the historic lot division visible along the east-west orientation. Mid-lot corridors on frontage lots make the media peonia lots visible and are required regardless of ownership. On interior peonia lots, this corridor appears at mid-block. If an aggregate of peonias extends from street to street, a visibility corridor shall be present in the design of the buildings indicating the mid-block dimension. Primary and outbuildings shall not cross lot lines without the use of an open space or connecting element that maintains the dimensions of the mid-lot corridors. For example, if an owner holds an entire row of media peonias along a north-south street and plans to build the maximum allowable percentage of lot coverage, then all building elements shall demonstrate a mid-lot visibility corridor at the lot lines.
4. Every point of the required corridors shall be open from its lowest point to the sky unobstructed, except for the ordinary projection of sills, belt courses, buttresses, ornamental features, chimneys, and eaves, provided that none of such projections shall project into a side yard any more than twenty-four (24) inches. Connecting elements such as balconies, porches, or bay windows may also be allowed as projections under these dimensional restrictions. Landscape elements are not covered under this restriction.
5. In instances where media-peonias are owned in aggregate or assembled to meet the minimum density or area requirements, the visibility corridor may be crossed by an enclosed primary structure or connecting element which clearly indicates the existence of the visibility corridor (i.e., substantial changes in the roof elevation, substantial indentions or breaks in exterior wall elements and similar architectural features) as may be approved by the Historic District Council (HDC).

### 8.01.02 Amelia River Waterfront Community Redevelopment Area

#### A. Purpose

It is the purpose of the CRA overlay to provide a broader mix of uses and compatible design with the downtown area in order to promote revitalization of the working waterfront and adjacent areas.

B. The review of proposed development within the CRA Overlay shall be based upon compliance with the CRA Design Guidelines. Those properties within the CRA Overlay which are also located within the Downtown Historic District Overlay shall be reviewed for compliance with the Historic Preservation Design Guidelines, dated December 1999. All plans for development within the CRA Overlay shall be reviewed by the Historic District Council.

C. Site design standards specified in the overlay supersede the requirements for the underlying zoning district. Specific site design requirements that are not covered by the overlay shall follow the standards of the underlying zoning district.

D. Properties located within the CRA abutting the Amelia River Waterfront are subject to the following standards:

1. All new construction that is a water dependent or water related use is exempt from Section 3.01.03(J) and Section 3.03.03(B) 1.
2. Building height shall be measured from the Base Flood Elevation (BFE) to the top of the roof, rather than from the finished grade, as established in 4.02.03(C). The maximum height of all structures shall not exceed thirty (30) feet in height above the BFE. Permissible roof forms shall be in compliance with the adopted CRA Design Guidelines.
3. Properties that have obtained the Waterfront Mixed Use Future Land Use designation are eligible for land uses in addition to those permitted in the Waterfront Industrial zoning and are specified in Tables 2.03.02 and 2.03.03. Floor area ratio shall not exceed 0.75. The floor area ratio shall be calculated based on the developable land area and shall include portions of the site which remain submerged. Residential units are permitted if the property has a FLUM category of WMU and the units are located above a non-residential use. Stand-alone residential units are prohibited.
4. Developers of Office, Commercial, and/or Waterfront Industrial uses may pay a fee in lieu of providing the required parking, as established in Table 7.01.04(A). The fee shall be set annually by the City Commission and shall be based on the average cost of constructing a parking space in the City. The fee shall be a one-time payment, to be placed in a trust fund for downtown parking improvements which serve the CRA properties. Residential uses must provide two spaces per dwelling unit on-site, and are not eligible for the fee in lieu of providing parking.
5. Front and rear yard setbacks are not required. In order to preserve view corridors and pedestrian access to the Amelia River, side yard setbacks and breaks between structures shall be provided as follows:
  - A. View Corridors
    1. A 15-foot side yard setback on each side yard is required for water lots located to the north of Centre Street (water lots 1 through 9). These locations provide for alignment with existing east-west rights-of-ways at Alachua, Broome and Calhoun Streets.
    2. Water lots to the south of Centre Street (water lots 25 through 40) shall provide a 30-foot minimum view corridor between buildings.
    3. These view corridors shall remain open to the sky and shall not include any parking areas, accessory structures or mechanical equipment.

B. Pedestrian Access

1. Publicly accessible pedestrian access to the water shall be integrated into the project's site design. These accessways shall provide a minimum width of ten (10) feet and shall occur at the view corridor locations. Access ways may vary in size and design as necessary to complement the overall project design. To encourage architectural variety and visual interest, certain encroachments and structural elements may be permitted within the accessways subject to compliance with the adopted CRA Design Guidelines. These accessways may be dedicated to public use through easements or dedication of right-of-way, or they may be retained under private ownership. In either case, these accessways shall remain open to and accessible by the public. If deemed necessary for security purposes, accessway closures may be permitted based on the posted operational hours of City beach access parking (exclusive of Main Beach or Seaside Parks).

E. Properties located within the CRA east of Front Street are subject to the following standards:

1. Facades up to thirty (30) feet in height shall have a front yard setback no more than ten (10) feet.
2. Facades up to forty-five (45) feet in height shall be recessed from the first thirty (30) feet of façade a minimum of ten (10) feet. Awnings, pergolas, or covered balconies may encroach into this setback, but shall not extend beyond the first thirty (30) feet of facade. Elements utilized to cover balconies shall not be a part of the main roof structure. Balcony enclosures (i.e., sun rooms, screened enclosures) shall be prohibited.
3. CRA properties located on the east side of North 2nd Street which share a property line with residentially-zoned, non-CRA properties shall meet the following standards:
  - a. Building height shall be limited to thirty-five (35) feet, including the parapet for flat roofed structures.
  - b. Buildings shall provide a front yard setback of no more than ten (10) feet. Facade elements above thirty (30) feet shall not be required to be recessed as provided in (2) above.
  - c. Non-residential and mixed-use projects shall provide a buffer along the shared property line which meets the requirements of a Buffer Type C as provided in Table 4.05.05(B).
  - d. All projects shall maintain a twenty (20) foot rear yard setback for principal structures.
4. Flat roofs are permitted but must provide a parapet up to 42 inches high in order to hide mechanical equipment.
5. Floor area ratio and density are established in the underlying zoning district.
6. Only one primary structure is permitted per lot of record.
7. Accessory structures must comply with the standards of the underlying zoning district as well as Section 5.01.00 of this LDC.
8. Side yard setbacks are not required.
9. Developers of Office, Retail, or other Commercial uses may pay a fee in lieu of providing the required parking, as established in Table 7.01.04(A.) The fee shall be set annually by the City commission and shall be based on the average cost of constructing a parking space in the City. The fee shall be a one-time payment, to



be placed in a trust fund for downtown parking improvements which serve the CRA properties. Residential uses must provide one space per dwelling unit on-site, and are not eligible for the fee in lieu of providing parking. Parking is not permitted in the front yard, but is permitted in the side or rear yard. Parking is also permitted beneath structures.

10. CRA properties located east of Front Street which carry the Central Business District future land use designation/C-3 zoning, and are not within the Coastal High Hazard Area (CHHA) are eligible to participate in a Density Bonus Incentive Program as described in Section 4.01.02.

### 8.01.03 Signage in the Historic Districts and Community Redevelopment Area

In an effort to protect the Historic District designations within the City of Fernandina Beach, the specific provisions in this article shall take precedence where conflicts arise in this sign code.

- A. Two (2) permanent on-site signs per business, are permissible, limited to projecting, wall, awning, or freestanding signs, and subject to the following standards:
  1. Signs shall not project more than five (5) feet from the face of the building;
  2. Projecting signs may project over sidewalk or pedestrian areas only at no less than seven and one half (7 1/2) feet above sidewalk level;
  3. The top of a projecting sign shall be not more than sixteen (16) feet above the sidewalk level;
  4. A projecting sign shall not be closer than two (2) feet to a vertical line extending upward from the curb;
  5. A projecting sign shall not exceed twelve (12) square feet (ft<sup>2</sup>) in area.
  6. A wall sign may be horizontal or vertical and shall not exceed one square foot in area for each linear foot of business frontage, to a maximum of twenty-five (25) square feet . One side of the sign may be no more than two (2) feet in height or width.
  7. Awning sign lettering is limited to one square foot per linear foot of the awning or canopy, up to a maximum of ten (10) square feet.
  8. Freestanding, ground or pole signs are permissible only for properties with a minimum front or side yard setback of eight (8) feet. Freestanding, ground and pole signs are limited to a maximum of twenty (20) square feet in sign face area and six (6) feet in height.
- B. Permanent window lettering is permissible in addition to permanent signage and sandwich boards/easel signs shall not exceed an aggregate area equal to twenty-five percent (25%) of the glass area on which the signage is placed.
- C. Sandwich boards or easel signs are permissible in addition to window lettering and permanent signage and are subject to the following standards:
  1. Limited to one (1) sandwich board or easel sign per business;
  2. The sandwich board sign shall comply with standards set forth in 5.03.10(E), and shall not utilize plastic or vinyl changeable copy.
  3. Easels displaying signs may be no more than 4' 6" high and the sign face may not exceed 6 square feet. Top of sign may not project above top of easel or 4'6" above the ground.
  4. The sign shall be placed between the store front and the edge of curb with a minimum five (5) feet of sidewalk left for pedestrian travel.
  5. The sign shall require a Certificate of Approval and the approval of the Historic District Council.
- D. Multi-Tenant Signs (reserved)

- E. Side Street Business Location Signs, private under public control located within public rights of way at street intersections, are subject to the following:
  - 1. Limited to one directional intersection (1) sign per business where a valid local business tax receipt has been obtained except as exempted by Florida Statute 205.192 and Municipal Code Section 74-92;
  - 2. Must be located at the nearest intersection to the location of the business on existing directional intersection signage posts;
  - 3. Side Street Business Location signs are allocated on a 1<sup>st</sup> come 1<sup>st</sup> served basis and may not exceed seven (7) signs located at existing signage posts;
  - 4. Signs are limited to 5 inches tall by 28 inches wide (5"x28");
  - 5. Signs are limited to a green background with white writing;
  - 6. Must apply for a sign permit as set forth in 5.03.03; and
  - 7. Must be removed when business ceases operation and/or closes.
- F. Signs shall use stone, brick, wood, or metal, or modern materials that have the appearance of these materials. No plastic or vinyl shall be utilized to create the signs, with the exception of plastic or vinyl used for lettering or graphics on permanent, non-changeable copy signs.
- G. All permanent signs affixed to private property shall require a Certificate of Approval and the approval of the Historic District Council, except for temporary special event signs, exempt signs, public directional or information signs, street number signs, and temporary signage placed on scaffolding during construction.
- H. Wall graphics are prohibited in the Downtown Historic District. Legacy signs are permissible.
- I. Signs shall be mounted in such a way to minimize damage to historic materials. On masonry buildings, bolts should extend through mortar joints and not through masonry units. On frame buildings, mounting brackets and bolts should be the minimal amount necessary to assure adherence to the surface and prevent excessive wood penetration. Signs shall not be placed upon a structure in any manner so as to disfigure or conceal any window opening, door or significant architectural feature or detail of any building, or in such a manner that requires changes to building materials.
- J. External lighting of signs through gooseneck lamps is permitted.
- K. In addition to signs prohibited within City limits as defined in LDC Section 5.03.05, the following signs are not permitted in the historic districts or CRA:
  - 1. Signs with fluorescent or day-glow coloring.
  - 2. Neon signs, or LED signs that mimic neon signs, over two (2) square feet in size.
  - 3. Pixelated LED signs.
  - 4. Internally lit signs.
  - 5. Changeable copy signs with plastic or vinyl lettering or graphics, including sandwich board and easel signs.
  - 6. Signs painted on or attached to trees, shrubbery, lamp posts, hydrants, traffic signs, stairways, benches, refuse containers, landscape planters, or telephone or utility poles.

## **8.02.00 Historic District Council**

### **8.02.01 Historic District Council Created and Established**

#### **A. Establishment**

There is hereby established the Historic District Council (HDC). The HDC is intended to be the City's primary agency responsible for furthering historic preservation within the City.

#### **B. Membership**

- 1. There shall be five (5) regular members of the HDC.

2. There shall be two (2) alternate members of the HDC.
  3. Where possible, members shall include, to the extent such individuals are available in the community and willing to serve, one (1) registered architect, and professionals from the disciplines of architecture, construction, design, history, architectural history, archaeology, or other historic-related fields such as urban planning, American studies, cultural geography or cultural anthropology. Persons who have demonstrated special interest, experience or knowledge in history, architecture or related disciplines such as law, real estate, land development, or construction shall make up the remainder of the HDC membership. Current resumes of HDC members shall be kept by the City as a public record.
- C. Authority to Seek Professional Expertise
1. With City Commission approval, the HDC may obtain the services of qualified persons to direct, advise, and assist it.
  2. The HDC may request equipment, supplies, and other materials necessary for its effective operation.
  3. When the HDC considers National Register nomination proposals and other actions which are normally evaluated by a professional in a specific discipline, and that discipline is not represented on the HDC, it may seek professional expertise in this area before rendering a decision. City Commission approval is required for any such professional contracts.

#### **8.02.02 Historic District Council Roles and Responsibilities**

The HDC shall have the duty and responsibility to:

- A. Identify, study, and recommend sites, structures, buildings, improvements, artifacts, and areas for designation as historic landmarks, historic sites, or historic districts.
- B. Maintain and update the historic properties survey as an inventory of historic landmarks, historic sites, and properties in historic districts. All inventories shall be compatible with the Florida Master Site File, which exemplifies the format used for statewide comprehensive historic preservation planning, and kept current and regularly provided to the state historic preservation officer for incorporation in the Florida Master Site File.
- C. Review and approve or deny applications for a certificate of Approval for construction, alteration, demolition, or removal of historic landmarks, historic sites, archaeological sites, properties in historic districts, or properties in the CRA Overlay.
- D. Review and make recommendations on National Register nominations within its jurisdiction.
- E. Make recommendations to the City Commission concerning the assignment of development rights or facade easements, or the imposition of other restrictions.
- F. Hear applications for variances within the Historic District Overlay or the CRA Overlay.
- G. Increase public awareness of the value of historic, architectural, and cultural preservation by developing and participating in public preservation information programs, and by updating such programs and public information documents.
- H. Make recommendations to the City Commission concerning the solicitation of grants from federal and State agencies, private groups, and individuals, and promote the preservation of historic or architecturally significant landmarks, sites, or properties in historic districts.
- I. Promulgate standards for architectural review.

- J. Evaluate and comment upon proposals pending before other public agencies affecting the physical development and land use patterns in or around historic landmarks, sites, or districts.
- K. Make recommendations to the City Commission on the purchase of historic landmarks, historic sites, or properties in historic districts where private preservation is not feasible.
- L. Perform any other functions which may be designated by resolution or motion by the City Commission.

#### **8.02.03 Historic District Council Policy and Procedure Statements**

The HDC may formulate and publish such policy and procedure statements as it deems reasonably necessary and appropriate to:

- A. Explain the format of information to be provided in the application for a Certificate of Approval.
- B. Explain the criteria and basis for HDC evaluation and ruling upon applications for a Certificate of Approval.
- C. Designate items to be subject to final staff approval without need for a hearing before the HDC.

#### **8.02.04 Historic District Council Staff Roles and Responsibilities**

- A. The City Manager shall provide professional staff in the City Planning Department to support the HDC in carrying out its responsibilities under this Chapter. Where possible, staff should have a background in historic preservation or a related field.
- B. Staff shall not sit as officer or board member of local preservation-related organizations, and shall act in an impartial manner in all matters involving the HDC.

#### **8.02.05 Certified Local Government Program**

In order to comply with the Department of State, Division of Historic Resources, "certified local government" requirements, the HDC shall take the following actions:

- A. A copy of all duplicate inventory materials will be provided to the SHPO. This will include any new or revised resumes of the HDC members or staff.
- B. The SHPO shall be provided with thirty (30) days prior notice of all HDC meetings. In the event of a special meeting, reasonable notice shall be given.
- C. Minutes of all HDC meetings shall be submitted to the SHPO. These minutes shall include a record of attendance of council members, the public, and any change in council membership.
- D. The SHPO shall be notified immediately of all new historic designations or alterations to existing designations.
- E. Proposed amendments to the LDC pertaining to the Historic District Overlay shall be sent to the SHPO for review and comment thirty (30) days prior to the scheduled adoption hearing.
- F. Objections by property owners that are notarized and filed with the HDC shall be submitted to the SHPO in order to prevent involuntary nomination to the National Register.
- G. The HDC shall submit an annual report to the SHPO on or before November 1 of each year covering the previous October 1 through September 30 period. The annual report shall include:
  - 1. Any changes or amendments to HDC rules of procedure;
  - 2. The number of proposals and applications reviewed by the HDC;
  - 3. New historic designations or alterations to existing designations;

4. Changes to the HDC;
5. New or revised resumes of HDC members or staff;
6. Changes or requested changes to the Historic District Overlay regulations;
7. Review of the survey and inventory activities with a description of the system used; and
8. A program report on each grant-assisted activity.

**8.03.00 Historic District Council Process and Procedure**

**8.03.01 General Quasi-Judicial Board Requirements**

See Section 11.04.00 of the Land Development Code.

**8.03.02 Procedure for Designation of Historic Districts**

- A. No historic district or property proposed for inclusion in a historic district within the city shall be designated by any City agency except as provided in this section.
- B. For purposes of this section, the term "property owner" shall mean the record owner or owners of one or more parcels of property within the boundaries of the proposed historic district. Should an individual, individuals or entity own more than one parcel of property within the boundaries of the proposed historic district according to the latest available tax rolls from the county property appraiser's office, then such individual or entity shall be considered one property owner for purposes of calculating the number of property owners in the proposed historic district regardless of the number of parcels that may be owned by the individual, individuals or entity within the boundaries of the proposed historic district. Should a parcel of property be owned by more than one individual for purposes of calculating the number of property owners within the boundaries of the proposed historic district, such co-owners shall be considered cumulatively as one property owner regardless of their number.
- C. Upon the recommendation of the City Commission or the Historic District Council an application may be submitted by a property owner within the proposed district, or his authorized agent, to the Planning Department to prepare or assist in preparation of a designation report. The City shall charge a fee for each application that reflects processing costs for the application, except such fee shall be waived for City-initiated applications. An area or property may be identified as being potentially suitable for designation as an historic district or for inclusion in a historic district. The area or property shall be surveyed and studied for the purpose of determining the age and significance of each building, site, structure, or object within the area. A nomination report shall be prepared based on the results of the survey. Once the district boundaries are determined, the property owners shall be surveyed for their agreement with the designation and the results shall be available and considered during public hearings at meetings of the Historic District Council, Planning Advisory Board, and City Commission.
- D. The applicant shall complete an application form provided by the City which shall, to the extent possible, include:
  1. A written description of the architectural, historical, or archaeological significance of the structures, sites and building in the proposed historic district specifically addressing and documenting the criteria set forth in subsection (j) of this Section;
  2. An identification of all buildings, structures and sites within the proposed historic district and the proposed classification of each as contributing or noncontributing with an explanation of the criteria utilized for the proposed classification;

3. A physical description of the proposed historic district, accompanied by photographs of buildings, structures or sites within the district indicating examples of contributing and noncontributing structures within the district;
  4. A statement of recommended boundaries for the proposed historic district and a justification for those boundaries, along with a map showing the recommended boundaries;
  5. The names and addresses of all owners of real property within the boundaries of the land upon which the designation of the historic district is requested and the real estate assessment numbers for the property within the boundaries of the land upon which the designation is requested. Requirements (1), (2), (3) and (4) shall be waived with respect to any historic districts listed on the National Register of Historic Places as of January 1, 1990.
- E. The Historic District Council shall hold a public hearing on the proposed designation within 90 days of the filing of a completed application. The Historic District Council shall hold at least one town meeting at which the proposed district will be explained and discussed. A quorum is not necessary to conduct the town meeting. The property owners within the proposed district shall be notified by United States mail at least thirty (30) days in advance of the Historic District Council public hearing date and time. For the purpose of notice requirements to owners, the names and addresses of owners shall be deemed to be those on the current tax records in the Office of the Property Appraiser. All notices required by this section shall state clearly the boundaries of a proposed historic district. The notice required by this section, the cost of which shall be \$2 for each notification, shall be paid by the applicant to the City.
- F. The notice referred to in paragraph (E) of this section shall include the following information and documents:
1. The notice shall state that the creation of an historic district will impose design review on certain permitted activities.
  2. The notice shall state that the ordinance creating the historic district will contain requirements which must be met in order to alter, renovate or demolish a structure or building within the district. These requirements may relate to density, siting, building materials and architectural features as well as other matters.
  3. The notice shall state that a list of contributing and noncontributing structures has been compiled and that contributing structures will be identified in the ordinance creating the historic district.
  4. The notice shall state that the owners have the right to vote whether they want the historic district to be created.
  5. The owners shall be provided a ballot which must be signed and witnessed which will permit the owner to vote whether he approves or disapproves the creation of the historic district. In order for the ballot to be valid it must indicate the name of the owner, the residence address of the owner and the address of the property in the proposed historic district. This ballot must be returned to the Historic District Council not less than twenty-one (21) days after the noticed hearing.
  6. The notice shall state that at the hearing, the proposed historic district design guidelines for reviewing certain permitted activities will be discussed and voted on by the Historic District Council.
  7. The notice shall state that if the district is created the owners shall be required to obtain a Certificate of Approval before certain work is done on the property.
  8. The notice shall state that the application for creating the historic district is on file with the Historic District Council and that the Historic District Council shall have on

- file all information submitted by the applicant and the Planning Department, including recommendations.
9. The notice shall state the time, date, and place of any town meetings scheduled by the Historic District Council. However, nothing herein shall prohibit the Historic District Council from holding other town meetings with published notice.
- G. Notice of a public hearing shall also be published once in a newspaper of general circulation in the City not less than fourteen (14) days in advance of the date of the hearing. The published notice shall be in a form prescribed by the Historic District Council and placed by the applicant at the applicant's expense. The applicant shall file proof of publication with the Historic District Council prior to the public hearing.
- H. The applicant for a proposed designation shall post signs within five working days after filing of a completed application, which signs shall be in the form required by the Historic District Council and shall be posted in full view of the public. The sign or signs shall be posted on the boundaries of the proposed historic district at each public right-of-way intersecting the boundary of the proposed historic district, or at such other locations and at such intervals, as determined by the Planning Department, as will ensure that the signs will be seen by as many persons as possible. The signs shall be maintained by the applicant until such time as the advisory recommendation has been made by the Historic District Council. The signs shall be removed by the applicant within ten days after final action by the City Commission.
- I. At the close of the public hearing, the Historic District Council shall determine whether, based upon the evidence, the proposed historic district does or does not meet the criteria for designation. Such a determination shall be made by a report stating the findings of the Historic District Council concerning the relationship between the proposed historic district and the National Register of Historic Places criteria for designation set forth below. At least two of the criteria must be met.
1. Its value as a significant reminder of the cultural, historical, architectural, or archaeological heritage of the City, state or nation.
  2. Its location is the site of a significant local, state or national event.
  3. It is identified with a person or persons who significantly contributed to the development of the City, state or nation.
  4. It is identified as the work of a master builder, designer, or architect whose individual work has influenced the development of the City, state or nation.
  5. Its value as a building is recognized for the quality of its architecture, and it retains sufficient elements showing its architectural significance.
  6. It has distinguishing characteristics of an architectural style valuable for the study of a period, method of construction, or use of indigenous materials.
  7. Its character is a geographically definable area or neighborhood possessing a significant concentration, or continuity of sites, buildings, objects or structures united in past events, or united in culture, architectural style, or aesthetically by plan or physical development.
  8. Its suitability for preservation or restoration.
- J. The Historic District Council shall also determine what proposed historic district design guidelines it would recommend to apply to the historic district and shall identify what actions to be taken on property within the proposed district that would require a certificate of Approval.
- K. The Historic District Council shall inform the public that each owner of real property in the proposed historic district had been sent ballots to vote on the proposed district and that

the ballots must be signed, witnessed and delivered to the Historic District Council within 21 days after the hearing.

- L. At the first meeting of the Historic District Council held at least seven days after the owners' votes are due, the Historic District Council shall tabulate the votes. If a majority of the owners' votes cast disapprove the creation of the proposed historic district, the Historic District Council shall take no further action on the proposed historic district and the Historic District Council's files on the district shall be closed. If 50 percent or more of the owners' votes cast approve the creation of the proposed historic district, then the Historic District Council shall adopt an advisory recommendation which shall be accompanied by a report stating the findings of the Historic District Council concerning the relationship between the nominated historic district and the National Register criteria for designation. The Historic District Council shall forward the advisory recommendation and report to the Planning Advisory Board.
- M. The Planning Advisory Board shall consider the nomination request, the findings of the Historic District Council, and the request's consistency with the comprehensive plan, and make a recommendation to the City Commission. The property owners within the proposed district shall be notified by United States mail at least thirty (30) days in advance of the Planning Advisory Board public hearing date and time. For the purpose of notice requirements to owners, the names and addresses of owners shall be deemed to be those on the current tax records in the Office of the Property Appraiser. All notices required by this Section shall state clearly the boundaries of a proposed historic district. The notice required by this Section, the cost of which shall be \$2 for each notification, shall be paid by the applicant to the City.
- N. When a majority of the owners' votes disapprove the creation of the proposed historic district, any City Commission member may request that an ordinance designating the proposed historic district be drafted, but approval of the designation of such historic district by the City Commission shall require a vote of two-thirds of the City Commission members unless 85 percent of the proposed historic district acreage is already part of an historic district listed on the National Register.
- O. The City Commission shall give notice, follow the publication procedure and sign posting procedure, hold public hearings, and make its determination in the same manner as provided in Section 11.02.00; provided however, there shall be no requirement to notify by United States mail all owners of real property within 350 feet of the boundaries of the proposed historic district. The Commission shall consider the same criteria set forth in paragraph (l) of this section. Any ordinance designating an historic district shall set forth the historic district design guidelines that apply to the historic district, which would then become the Historic District Design Regulations for that historic district, and the actions that would require a Certificate of Approval.
- P. The City Clerk shall notify each applicant and each owner of real property within the proposed historic district of the final decision relating to the proposed historic district within seven (7) days of the City Commission's action and shall cause the designation of an historic district to be recorded in the official records of Nassau County, Florida, at the expense of the applicant for the designation. The City Clerk shall also notify the Property Appraiser's office of the designation.
- Q. Boundaries for designated historic districts identified in or by this chapter shall be clearly established through legal descriptions.
- R. When an historic district designation is made, the Director of Planning or his designee shall enter the designation as an overlay on the Zoning Map and Future Land Use Map.



- S. Whenever the City Commission has denied an application for the designation of an historic district no further application shall be filed for the same historic district designation for a period of one year from the date of such City Commission denial.
- T. The designation of any historic district may be amended or rescinded through the same procedure utilized for the original designation, by the filing of an application for rescission or amendment of designation utilizing the procedure hereinabove set forth. Any Historic District Council recommendation to amend or rescind a prior designation shall be based upon new evidence and negative evaluation according to the criteria used for historic district designation in existence at the time of such application for rescission or amendment.
- U. If an updated report shows that there are additional contributing structures outside of the original boundary of an existing district, then the city may consider the expansion of the boundaries of the district to incorporate those properties. A ratio of 50 percent contributing structures within the proposed district expansion is required for the creation of an expanded district.
- V. The expansion of existing historic districts shall be done by ordinance adopted by the City Commission, in accordance with the same procedures required for the creation of new districts, except that the information required shall be applicable to the expansion area only, and not to the entire district.

#### **8.03.03 Application Process for Certificate of Approval**

- A. A Certificate of Approval is required before a permit is issued for work on a historic landmark or site, any property in a historic district (either contributing or noncontributing), or any property in the CRA Overlay.
  - 1. Structures are deemed contributing or noncontributing based on the most recent historic structures survey completed by the City.
  - 2. Properties that are partially within the Historic District Overlay shall only receive HDC approval for projects that fall within the portion of the property in the Historic District Overlay. If the proposed project crosses the History District boundary line, then HDC approval shall be required. Proposed projects on the property wholly outside of the boundary line shall not require HDC approval.
  - 3. For improvements as listed within the Certificate of Approval Matrix ("Matrix") (Table 8.03.03(B)) under staff approval, the City Manager may issue a Certificate of Approval after a review of the application determines the improvement is in compliance with approved guidelines.
  - 4. For improvements as listed within the Matrix (Table 8.03.03(B)) under HDC approval, the HDC may issue a Certificate of Approval after a review of the application and a public hearing determines the improvement is in compliance with approved guidelines.
  - 5. The City reserves the right to refer specific items to the HDC for its review.
  - 6. Decisions of the City Manager regarding Certificate of Approval applications may be appealed to the HDC and applicable fees shall apply.
  - 7. Any applicant may request referral to the HDC rather than staff approval and applicable fees shall apply.
  - 8. Any application referred by the City Manager or by an applicant will be considered in accordance with the application review schedule contained in this section.

- B. Improvements to properties are subject to either staff or HDC approval as set forth in Table 8.03.03(B), the Certificate of Approval Matrix:

**Table 8.03.03 (B). Certificate of Approval Matrix**

ACTION	CONTRIBUTING		NON-CONTRIBUTING	
	STAFF	HDC	STAFF	HDC
<b>ACCESSORY DWELLINGS</b>		X		X
<b>ADDITIONS</b>				
1. Not visible from the street AND 20% or less of the existing building's square footage		X	X	
2. All other additions		X		X
<b>CANVAS AWNINGS</b>	X		X	
<b>CARPORTS (ADDITION OR ENCLOSURE)</b>		X	X	
<b>CHANGES TO BOARD-APPROVED PLANS</b>		X		X
<b>DECK, PATIOS, PERGOLAS</b>				
1. With a structure		X	X	
2. Without a structure		X	X	
3. Not visible from right-of-way (with or without structure)	X		X	
<b>DEMOLITIONS</b>				
1. 10% or less of non-historic addition	X		X	
2. All other demolitions		X		X
<b>DOORS + GARAGE DOORS</b>				
1. Same materials, style, or size	X		X	
2. Change in materials or style	X		X	
3. Change in openings on main façade		X		X
4. Change in openings on a secondary façade		X	X	
<b>DRIVEWAYS + SIDEWALKS</b>	X		X	
<b>GARAGES (ATTACHED OR DETACHED)</b>		X		X
<b>EXTENSION OF CERTIFICATE OF APPROVAL</b>	X		X	
<b>EXTERIOR WALL FINISH</b>				
1. Removal of non-historic vinyl/aluminum siding (if original surface is salvageable or if replacement material matches structure's original exterior finish)	X		X	
2. All other finishes (including painting of originally unpainted surface)		X	X	
<b>EXISTING DOCKS (WITH OR WITHOUT A STRUCTURE)</b>	X		X	
<b>FENCES + WALLS</b>	X		X	
<b>MECHANICAL SYSTEMS (WITH VISUAL IMPACT)</b>	X		X	
<b>PAINTING</b>	X		X	
<b>POOLS + POOL ENCLOSURES</b>		X		X
<b>PORCHES</b>				
1. Open an enclosed porch		X	X	
2. Enclose a porch on the main façade		X		X
3. Enclose a porch on a secondary façade		X	X	
<b>PUBLIC (GOVERNMENT AGENCY) PROJECTS</b>		X		X
<b>RAIN BARRELS</b>	X		X	

ACTION	CONTRIBUTING		NON-CONTRIBUTING	
	STAFF	HDC	STAFF	HDC
<b>RELOCATION</b>		X		X
<b>REPAIRS + MAINTENANCE (MATCH EXISTING)</b>	X		X	
<b>ROOF</b>				
1. Same material and shape	X		X	
2. Change in material	X		X	
3. Change in shape and/or height		X		X
<b>SCREEN DOORS</b>				
1. Primary Entrance		X	X	
2. Secondary Entrance	X		X	
<b>SIGNAGE</b>	X		X	
<b>SHEDS (up to 150 square feet)</b>				
1. Custom-designed	X		X	
2. Pre-fabricated		X	X	
<b>SHUTTERS</b>				
1. Removable shutters	X		X	
2. Permanent shutters visible from right-of-way		X	X	
3. Permanent shutters not visible from right-of-way	X		X	
<b>SKYLIGHTS</b>		X	X	
<b>SOLAR COLLECTORS</b>		X		X
<b>STORM WINDOWS AND DOORS</b>	X		X	
<b>VARIANCES</b>		X		X
<b>WIND GENERATORS</b>		X		X
<b>WINDOWS</b>				
1. Same materials, style, or size	X		X	
2. Change in materials or style	X		X	
3. Change in openings on main façade		X		X
4. Change in openings on a secondary façade	X		X	
	STAFF		BOARD	
<b>NEW CONSTRUCTION</b>			X	
<b>LANDSCAPING (NEW CONSTRUCTION ONLY)</b>	X			
<b>LIGHTING (NEW CONSTRUCTION ONLY)</b>	X			
<b>PARKING MATERIALS (NEW CONSTRUCTION ONLY)</b>	X			

C. Prior to undertaking an improvement to any property in a historic district, an application shall be submitted to the City for a Certificate of Approval. A Certificate of Approval shall be obtained even when a building permit is not required for the proposed work, unless the work falls under conditions outlined in Section 8.03.03(L). The City Manager shall advise any applicant if the subject property or work will require a Certificate of Approval. If no Certificate of Approval is received prior to beginning the work, the certificate application fees required shall be doubled.

- D. In addition to the application requirements set forth in Section 11.01.03, the applicant shall provide:
  - 1. Scale drawings of the proposed work;
  - 2. Photographs of the existing structure or site and adjacent properties; and
  - 3. Information about the building materials to be used;
  - 4. The HDC or City Manager may request additional information to be included with the application.
- E. An application for a Certificate of Approval shall not be considered complete until all required data has been submitted. An applicant may bring a preliminary proposal for improvements to the City Manager or the HDC for comments. When an application involves new construction, the applicant may present conceptual plans for review and comment before the preparation of construction drawings. The HDC or City Manager's approval of a preliminary or conceptual plan is a courtesy and such approval is not binding.
- F. Posted, mailed, and published notice shall be provided as set forth in Section 11.02.00.
- G. A quasi-judicial hearing shall be conducted as set forth in Section 11.04.00.
- H. Procedures for HDC action:
  - 1. If the application is for a Certificate of Approval for improvements requiring HDC review, the HDC shall take action within forty-five (45) days of the submission of a completed application, to approve, modify, or disapprove the application, in whole or in part. The HDC may extend action for a period of up to thirty (30) additional days. In the case of a demolition application, the HDC may suspend action on it for a period not to exceed 180 days.
  - 2. The decision of the HDC shall be in the form of a written order. Any documents, drawings, plans, or specifications submitted for review by the HDC shall be stamped and signed by the chair, and the same documents shall be submitted to the building department for building permit applications. In cases where the HDC has disapproved the plans, the City shall furnish the applicant with a copy of the HDC written order, including reasons for disapproval, together with a copy of any recommendations the HDC may have for changes necessary to be made before the plans will be reconsidered.
  - 3. Certificates of Approval shall be issued for a period of twelve (12) months, and are renewable for six (6) months without cause, and for an additional six (6) months, upon a showing of good cause by the applicant. The applicant shall submit a written request for extensions, with appropriate support documentation, if required.
- I. All work performed pursuant to the issuance of a Certificate of Approval shall conform to the requirements of the certificate.
  - 1. It shall be the duty of the City to inspect any work performed pursuant to the certificate, in order to ensure its compliance.
  - 2. If work is not performed in accordance with the Certificate of Approval, the City may issue a stop work order so that all work shall cease, or may take such other action as it deems appropriate. No person shall undertake any work on such project as long as such stop work order shall continue in effect.
  - 3. All work not in compliance may be required to be removed, regardless of hardship to the owner.
- J. Any change in the scope of work subsequent to the issuance of a Certificate of Approval shall require a new Certificate of Approval for the changes. Applications for approval of such changes shall be in compliance with all procedures as outlined in this section.

- K. If an applicant wishes to move a historic landmark, building, monument, or structure from its site; move a building or structure from a historic district; move a building or structure to a historic site; or move a building or structure to property in a historic district, the HDC shall consider, in addition to the points contained in this section:
  - 1. The contribution the building or structure makes to its present setting;
  - 2. Whether there are definite plans for the use of the site once vacated;
  - 3. Whether the building or structure can be moved without significant damage to its physical integrity; and
  - 4. The compatibility of the building or structure to its proposed site and adjacent properties.
- L. A Certificate of Approval is not required for work for which a building permit is not required and where the purpose and effect of such work is to correct deterioration, decay, or damage to a structure or any part of it, and where such work will restore the building to the same condition, as nearly as practicable, as its condition prior to the deterioration, decay or damage. Only repairs that will not change the exterior appearance or composition of the building materials shall be exempted.

#### 8.03.03.01 Requirements for Demolition Applications

- A. Application requirements. Application for a Certificate of Approval for any demolition of a primary building or structure (contributing or noncontributing) located within a locally designated historic district or the CRA shall be submitted by the property owner to the HDC. No building or structure in a locally designated historic district or the CRA shall be demolished without approval by the HDC, unless by a superseding order of a government agency or a court of competent jurisdiction.
- B. Public hearings and notice requirements. Certificate of Approvals for demolition applications are to be heard in accordance with HDC hearing requirements for Certificate of Approval applications and noticed in accordance with City requirements for public hearings.
- C. Review criteria for demolition applications. In evaluating applications for a Certificate of Approval for demolition, the HDC shall consider the following:
  - 1. Whether the structure or site would meet national, state, or local criteria for designation;
  - 2. Whether the structure or site is a contributing structure or site to a locally designated or National Register historic district;
  - 3. Whether loss of the structure or site would deteriorate the quality or continuity of the historic district, or the surrounding neighborhood;
  - 4. Whether the structure or site is of such design, craftsmanship, or material that it could be reproduced only with great difficulty and/or expense;
  - 5. Whether the structure or site is one of the last remaining examples of its kind in the neighborhood, county or region, or is a distinctive example of an architectural or design style which contributes to the character of the district;
  - 6. Whether removal of the structure or site would destroy the historic relationship between structures or open space;
  - 7. Whether retention of the structure or site promotes 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;
  - 8. Whether the applicant has made good faith efforts to pursue alternatives to demolition;

9. Whether the applicant will be denied a reasonable return on his or her investment;
  10. Whether there is economic hardship for the applicant as demonstrated by requirements in Section 8.03.06;
  11. Whether the Code Enforcement and Appeals Board has recommended demolition of the structure.
- D. Written evidence. The HDC may request the following written evidence be submitted as part of an application for a Certificate of Approval for demolition:
1. A report from a certified property appraiser stating that such structure as it exists will not earn a reasonable economic return for the owner.
  2. A report from a certified property appraiser as to the estimated market value of the property both in its current condition and after completion of the proposed demolition or removal.
  3. A report from a licensed engineer or architect with experience in rehabilitation as to the structural soundness of the structure and its suitability for rehabilitation and/or relocation.
  4. An estimate from an architect, developer, real estate consultant, or appraiser experienced in rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing structure in its current location or in any proposed new location.
- E. Demolition delay period. The HDC may grant a Certificate of Approval for demolition as requested by a property owner which may provide for a delayed effective date. The effective date of the certificate will be determined by the HDC based on the relative significance of the structure and the probable time required to arrange a possible alternative to demolition. The HDC may delay the demolition of contributing buildings within locally designated historic districts for up to six months, and for non-contributing buildings within locally designated historic districts for up to three months. During the delay period, the HDC may take such steps as it deems necessary to preserve the structure requested to be demolished and ensure that the structure is secured and stabilized. Such steps may include, but are not limited to, consultation with community 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 the structure to a new location.
- F. Special requests precedent to demolition. The HDC may, with the consent of the property owner and at the property owner's expense, request that the owner salvage and preserve building materials, architectural details and ornamentation, fixtures and the like for reuse in the restoration of other historic properties. At the HDC's discretion, and with the property owner's consent, the HDC, Amelia Island Museum of History, or other local historical organizations at their expense, may salvage and preserve building materials, architectural details and ornamentation, fixtures, and the like. The HDC may, with the consent of the property owner and at the property owner's expense, recommend recording the architectural details for archival purposes prior to demolition. This recording may include, but is not limited to, photographs, videotaping, historical background information, and scaled architectural drawings.
- G. Denial of Certificate of Approval for demolition. The HDC's refusal to grant a Certificate of Approval for demolition requested by a property owner shall be supported by a written statement describing the public interest that the HDC seeks to preserve.
- H. Requirement of development plans. No contributing building or structure on a property located within a locally designated historic district or the CRA shall be totally demolished without first receiving at the minimum conceptual approval by the HDC for new

construction. The requirement of a certificate of Approval for new construction may be waived by the HDC upon a showing of good cause that such requirement would be unduly harsh or would result in a substantial hardship to the property owner. A showing of good cause may include, but is not limited to, evidence that the property owner is unable to comply with the requirement for new construction due to advanced age, infirmity, physical or other handicap, or economic hardship. In the event economic hardship is claimed, the applicant must demonstrate the requirements in Section 8.03.06. Property owners seeking demolition of an unsafe structure based upon recommendation of the Code Enforcement and Appeals Board or the Building Official are exempt from this requirement. Upon approval by the HDC of a Certificate of Approval for demolition, the demolition permit shall not be issued until all demolition and new construction plans for the property have received all other required governmental approvals.

- I. Structures not in historic districts or the CRA. Upon receipt of a demolition permit application for properties not in the historic districts or the CRA, the Building Department shall notify the Planning Department. During the permit application review period, the Planning Department shall record the property through photographic documentation for archival purposes. The City may seek permission from the property owner to enter the building to take photographs prior to demolition.

#### **8.03.04 Standards for Review of Certificate Applications**

A. In addition to specific criteria referenced in Sections 8.03.03 and 8.03.06 regarding demolition, relocation, and economic hardship, the Historic District Council uses the following criteria for review of projects:

1. The Secretary of the Interior's Standards for Rehabilitation;
2. The applicable Design Guidelines: Historic Preservation Guidelines for the Downtown Historic District, the Old Town Preservation and Development Guidelines, and the Community Redevelopment Area Design Guidelines, all as amended from time to time; and
3. The City Comprehensive Plan; and
4. The City Land Development Code.

B. The City Manager, in considering any application for improvements subject to staff review, shall consider the same criteria in Section 8.03.04(A).

#### **8.03.05 Standards for Archaeological Work; Discovery of Archaeological Sites (reserved)**

#### **8.03.06 Economic Hardship**

A. A property owner may demonstrate economic hardship as to demolition, substitution of alternative building materials, or other cases for primary structures by providing the following information as applicable and as may be required by the HDC.

1. Owner currently receives fixed income benefits;
2. Owner currently receives assistance through income-indexed program which provides for physical improvements to the property;
3. An estimate of the cost of the proposed construction, alteration, demolition, or removal and an estimate of any additional cost that would potentially be incurred if the owner were to comply with the recommendations of the Board for the changes necessary to obtain a Certificate of Approval;
4. Any documentation related to good faith attempts to sell, rehabilitate or reuse the structure or structures within the last three (3) years;



5. Proof of payment of property taxes within the last three (3) years;
6. Owner has tax-exempt status as a (501)(c)(3) organization;
7. A report from a developer, real estate consultant, certified property appraiser or other real estate professional experienced in rehabilitation as to the economic feasibility or viability or rehabilitation or reuse of the existing structure or structures; and/or
8. A report from an engineer, architect or contractor with experience in rehabilitation as to the soundness of any structures on the property and their suitability or feasibility for rehabilitation or reuse.

B. Property owners are not required to prove economic hardship for accessory structures.

#### **8.03.07 Demolition by Neglect**

A. The following shall apply to maintenance and repair to structures in the locally designated historic districts, as well as any structure or property in the City that has been listed individually or deemed eligible for individual listing in the National Register:

1. The owner, lessee, or other person in physical control of the structure shall comply with all applicable codes, laws and regulations governing the maintenance and safety of property including but not limited to City Codes, as applicable. It is the intent of this section to preserve from deliberate or inadvertent neglect of the exterior features of a building designated as a contributing structure to a historic district, and the interior portions therefore when such maintenance is necessary to prevent deterioration and decay of the exterior. All such buildings shall be preserved against such decay and deterioration and shall be free from structural defects through prompt correction of any of the following defects:
  - a. Facades which may fall and injure members of the public or property;
  - 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. Defective or insufficient weather protection for exterior wall covering, including lack of paint or weathering due to lack of paint or other protective covering.;
  - f. Any fault or defect in the building which renders it not properly watertight or structurally unsafe; and
  - g. Any fault or defect in the building rendering such structure an unsafe structure as defined under the provisions of Chapter 22, City Code of Ordinances.
2. Where the property is an archaeological site, the owner shall be required to maintain his property in such a manner so as not to adversely affect the archaeological integrity of the site.
3. It shall be the joint responsibility of the Building Department, Planning Department, and Code Enforcement staff to enforce the provisions of this section, and the divisions may refer violations to the Code Enforcement and Appeals Board for enforcement proceedings pursuant to Chapter 2, City Code of Ordinances.

### 8.03.08 Emergency Actions

#### A. Emergency Repair Procedure

1. When any property within the historic districts or CRA requires immediate repair to preserve its continued habitability and/or the health and safety of its occupants or others, emergency repairs may be performed in accordance with applicable construction codes immediately upon approval of the Building Official, who shall certify that a bona fide emergency of the type referenced herein exists, without first obtaining a Certificate of Approval from the Historic District Council.
2. The procedures outlined in this section should be strictly limited to those circumstances which, in the opinion of the Building Official, meet the definition of an emergency as defined in Chapter 1 of the Land Development Code. No work in addition to the emergency repairs shall be performed until an appropriate request for approval has been received by the City Manager or his/her designee and the Historic District Council pursuant to the procedures set forth in this article.
3. If the Building Official or Fire Marshal determines that a building or structure in a local historic district or the CRA poses an immediate threat to persons or property, such official may order or conduct emergency repairs necessary to make the building or structure safe without the requirement of a Certificate of Approval. Under such circumstances, the repairs performed shall be only such as are necessary to preserve the continued habitability of the building or structure and/or the health and safety of its occupants or others and to prevent further damage. Where feasible, these temporary measures should be reversible without damage to the building or structure. Once such temporary repairs have been completed, no further work may be done on the building or structure until a Certificate of Approval is obtained.
4. Within 48 hours after the repairs are made, the Building Official making or ordering such authorized temporary repairs shall notify the Historic District Council Chair or staff. If any work intended to be permanent was performed, or is to be performed, the property owner must apply for a Certificate of Approval within 90 days after the emergency work is conducted in accordance with COA procedures, and the Historic District Council action shall supersede the emergency approval.

#### B. Emergency Demolition Procedures

1. The Building Official shall immediately notify the Community Development Director of cases where there are emergency conditions dangerous to life, health or property affecting a building or structure in a historic district or a building or structure that has been listed individually or deemed eligible for individual listing in the National Register, or a building over 45 years old. Notification to the Community Development Director shall consist of a written report from a Building or Code Enforcement Inspector describing the dangerous conditions, and any other documentation that the Community Development Director shall require.
2. The Community Development Director shall consult with Historic District Council staff and the Historic District Council Chair or HDC designee upon receipt of the statement or as soon as is practicably possible. The Director, staff, and the HDC Chair or HDC designee shall determine whether any additional information or documentation is needed. If so, the documentation or information shall be obtained by the Building Official. If not, or when requested information is received and approved by staff and the HDC Chair or designee, the Building Official may order the dangerous conditions abated without a Certificate of Approval and without approval of the full HDC.

### 8.03.09 Appeals

- A. An applicant aggrieved by any decision of the HDC may appeal to the City Commission.
- B. The petition shall be presented to the City Commission within thirty (30) days after the decision of the HDC; otherwise the decision of the HDC will be final.
- C. The request for an appeal shall be submitted in writing to the City Clerk, and the request shall state the basis for the appeal in clear and precise terms. The record on appeal shall consist of the record of the proceedings below (which shall be the minutes of the meeting, unless the person requesting the appeal provides a verbatim transcript at their cost) including the staff report and all other evidence presented by the City and the applicant. If either the City or the applicant desires to present new evidence, the matter may be referred back to the HDC for their review. When the record is complete, the City Clerk shall send a copy of the record and a notice of the hearing date to both parties. The parties shall receive a minimum of ten (10) days notice of hearing.
- D. An applicant may appeal a decision of the City Manager to the HDC. The applicant shall submit the appeal in writing and shall state the reasons for the appeal.

### 8.03.10 Enforcement; Penalties; Injunctive Relief

#### A. Enforcement

- 1. The City shall promptly stop any work attempted to be done without or contrary to a Certificate of Approval issued under this chapter.
- 2. Any sign or exterior illumination of walls, exterior roofs, or appurtenances of buildings displayed contrary to the provisions of this LDC shall be removed.
- 3. If the owner of the structure or building fails to correct the defects as outlined in this section, after knowledge of the existence of such defects has been brought to his attention, the owner shall be found in violation of this LDC, and shall be subject to a fine.

#### B. Penalty; restoration of building to former appearance

- 1. A violation of this LDC shall be a separate offense for each day or portion thereof during which any such violation continues to occur and each offense shall be punishable by a fine.
- 2. Any person who demolishes, alters, or constructs a building or structure in violation of this chapter shall be required to restore the building or structure and its site to its appearance prior to the violation. This civil remedy shall be in addition to and not in lieu of any civil or criminal prosecution and penalty.

### 8.03.11 Tax Exemptions for Historic Properties

Tax exemptions on City ad valorem taxes for qualifying projects are explained in the City Code of Ordinances, Chapter 74, Article V.

### 8.03.12 Severability

The provisions of these sections are declared to be severable and if any section, sentence, clause or phrase of these sections shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses and phrases of these sections, but they shall remain in effect.