

Chapter 114 - HISTORIC PRESERVATION

ARTICLE I. - IN GENERAL

Sec. 114-1. - Purpose and intent.

The purpose and intent of this chapter is to establish the framework for a comprehensive historic preservation program in the city which identifies, protects and enhances historical resources and promotes cultural, educational, health, moral, economic, aesthetic and general welfare of the public by preventing the destruction of local historic landmarks, buildings, structures or districts and in turn enhances property values.

Sec. 114-2. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Aggrieved party means a person who publicly voices an objection to a project or a decision of the historic preservation commission.

Alteration means any act that changes the exterior appearance of a designated landmark, site or a property within a historic district. Alteration shall include additions, reconstruction, remodeling, or structural change involving the form, texture, materials of a building, structure, or site, or any other changes in exterior appearance.

Applicant means owner or owners' authorized agent who applies for a certificate of review ~~from the historic preservation commission~~ in order to make an exterior change to property. Persons other than the fee owner need the owner's consent in writing to apply in order to make an exterior change to the property. An applicant may also be any party in regard to landmark designation.

Archaeological resource ~~means all~~ refers to evidence of past human occupation which can be used to reconstruct the lives of past peoples or evidence of past animal or plant life in the form of nonhuman fossil. These include sites, artifacts, and all other relevant information and the contexts in which they occur, because of their content or presumed content, exemplify the cultural, political, economic, social, historic or prehistoric heritage of the community or area, or they may have yielded or may be likely to yield information on recorded history.

Architectural features means the architectural style, scale, massing, site, general design and general arrangement of the exterior of a building or structure, including roof type and roof material, building type, texture, and material, open courtyards which are accessible to the public, window type and material, doors type and material, and appurtenance type and material thereto.

1 **Architectural quality or importance** means the improvement or structure
2 portrays the environment of a group of people in an area of history characterized by a
3 distinctive architectural style; it embodies those distinguishing characteristics of an
4 architectural type, period or method; it is the work of an architect or master builder
5 whose individual work has influenced the development of the area; or it contains
6 elements of architectural design, detail, materials or craftsmanship which represents a
7 significant innovation.

8 **Assessed value** means total value of a tax parcel, including the structures, land
9 and any other rights appurtenant thereto, as determined by the Lee County property
10 appraiser and shown on the property tax bill sent to the owner of record by the
11 county.

12 **Building** means an enclosed structure or covered space created to shelter people
13 or things, such as a house, commercial structure, church, motel, warehouse, or
14 gazebo. Building may refer to a historically related complex such as a courthouse and
15 jail or a house and barn.

16 **Certificate of review** means the approval of an application which must be
17 approved by the historic preservation commission or in some cases by the community
18 development director before making any for alteration, new construction, changes,
19 relocation or demolition of any structure, building, or site designated as a local
20 historie landmark or located within a historic district. See section 114-71. The
21 ~~certificate of review is not required for maintenance or basic repairs when same or in-~~
22 ~~kind materials are used and the appearance remains the same.~~

23 ~~**Certified local government** means a government meeting the requirements of the~~
24 ~~National Historic Preservation Act Amendments of 1980 and the implementing~~
25 ~~regulations of the United States Department of the Interior and the state. A~~
26 ~~government, which becomes certified, will review all nominations to the National~~
27 ~~Register within its jurisdiction before reviews at the state and federal levels.~~

28 **CFR** means Code of Federal Regulations.

29 ~~**Conjectural feature** means an architectural feature replaced based on~~
30 ~~presumption of existence or guesswork instead of reliance on historical documentation~~
31 ~~and physical evidence.~~

32 ~~**Contributing resource or property** means a building, structure, or site which is~~
33 ~~at least 50 years old and contributes to the overall historic significance of a designated~~
34 ~~historic district and possesses historic integrity reflecting the character of a time or is~~
35 ~~capable of yielding important information about an historically significant period or~~
36 ~~independently meets the criteria for designation as a local historic landmark and/or~~
37 ~~district.~~

38 ~~**Decision or recommendation** means the executive action taken by the historic~~
39 ~~preservation commission on an application for designation or for a certificate of review,~~
40 ~~regardless of whether that decision or recommendation is immediately reduced to~~
41 ~~writing.~~

42 **Demolition** means any act or process that destroys, wrecks, razes, removes or
43 permanently impairs the structural integrity, in whole or in part, of a landmark, or
44 building or structure in a designated historic district.

1 **Demolition by neglect** means improper or inadequate maintenance of any
2 designated historic landmark or building or structure in a designated historic district
3 ~~resource~~, which results in its substantial deterioration and threatens its continued
4 preservation.

5 **Design guidelines** means criteria and standards set forth in an illustrated manual
6 ~~a design guideline handbook~~ which is prepared adopted, amended or replaced by the
7 historic preservation commission and subsequently ratified and adopted by city
8 council to provide guidance and, which are tools to preserve the historic, cultural and
9 architectural character of an area or a building, site or structure.

10 **Designation** means an official act of the city council recognizing an historic
11 resource according to the procedures set forth in this chapter article, either by
12 designating it as a local historic landmark, a landmark site, or ~~as~~ an historic district
13 ~~by placing them upon the local register.~~

14 **District** means an area ~~designated~~ defined as a historic district by the city council
15 ~~with specific, state or federal authorities, which may contain within definable~~
16 geographic boundaries and one or more landmarks having historical, cultural or
17 archaeological significance, including their accessory buildings and natural resources.
18 See section 114-3. A historic district may have within its boundaries other buildings
19 or structures that, while not of such historical, cultural, architectural or
20 archaeological significance to be qualify as designated landmarks individually,
21 nevertheless are significant contribute to the overall visual setting of or characteristics
22 of the landmarks located within the district; such buildings or structures are part of
23 the historic district but are deemed “non-contributing.”

24 **Exterior** means all outside surfaces of a building, structure, or site.

25 **Florida master site file** means the state's archive of information on
26 archaeological sites and historical structures. The site file provides information about
27 whether an area has been surveyed for historic resources, what sites are recorded in
28 particular areas, and which evaluated sites are considered historically significant.

29 **Historic preservation** means the act of conservation or recreating the remnants
30 of past cultural systems and activities that is consistent with original or historical
31 character. Such treatment may range from a pure restoration to adaptive use of the
32 site but its historic significance is preserved.

33 **Historic preservation commission** means a board of citizens appointed by city
34 council ~~and confirmed by city council~~ to administer the provisions of this chapter. See
35 article II of this chapter.

36 **Historic resource property** means any prehistoric or historic district, site,
37 building, structure, object or other real or personal property of historical or
38 archaeological value, including but not limited to monuments, abandoned ships,
39 buildings, engineering works, treasure troves, artifacts, or other objects with intrinsic
40 historical or archaeological value, or any part thereof, relating to the history,
41 government, and culture of the state, region, or city.

42 **Historical character or importance** means the site, improvement, and structure
43 has character, interest or value as a part of the development, heritage or cultural
44 characteristics of the community; is associated with the events that have made a
45 significant contribution to the broad pattern of local history; is associated with the
46 lives of persons significant to our past; exemplifies the cultural, political, economic,

1 social, historic and prehistoric heritage of the community; or may have yielded or may
2 be likely to yield information on recorded history.

3 **Historical resource survey** means a comprehensive survey compiled by or under
4 the direction of the community development department or the historic preservation
5 commission involving identification, research and documentation of buildings, sites
6 and structures of any historical, cultural, archaeological, or architectural importance
7 in the city.

8 **Improvement** means any building, structure, fence, gate, wall, walkway, parking
9 facility, nonresidential light fixture, nonresidential bench, foundation, sign, work of
10 art, earthwork, landscape, sidewalk, or other manmade object constituting a physical
11 change or improvement of real property, or any part thereof.

12 **Landmark** means a building, structure or site which meets at least two of the
13 National Register criteria contained in this chapter article, and which has been so
14 designated by the city council.

15 **Landmark site** means the location of a significant event, a prehistoric or historic
16 occupation or activity, or a building or structure, whether standing, ruined, or
17 vanished, where the location itself maintains an historical or archaeological value
18 regardless of the value of any existing structures, and which has been so designated
19 by the city council.

20 **Minor exterior work** means exterior changes ~~outlined in design guidelines~~
21 ~~prepared for the historic district that are approved by the historic preservation~~
22 ~~commission and ratified by city council~~ that do not involve substantial alterations,
23 additions, or demolition that could impair the integrity of a building or structure
24 designated as a landmark or located within a designated historic district. See section
25 114-71.

26 **National Register of Historic Places** means a federal listing maintained by the
27 U.S. Department of the Interior of buildings, sites, structures and districts that have
28 attained a quality of significance in American history, architecture, archaeology,
29 engineering and culture as determined by the Historic Preservation Act of 1966.

30 **Non-contributing resource** means any building, structure, or site in a historic
31 district which is significant to the visual setting of the district but which would not be
32 considered a landmark individually because of which does not contribute to the overall
33 historic significance of a designated historic district due to alterations, disturbances or
34 other changes and therefore no longer possesses historic integrity, or because it was
35 not present during the period of historic significance or is incapable of yielding
36 important information about that period.

37 **Ordinary repair and maintenance** means any work done on any building,
38 structure or site or to real property the purpose and effect of which is to correct or
39 prevent any deterioration of, decay of or damage to the exterior of such building,
40 structure or site or any part thereof, and to restore the same as nearly as may be
41 practicable to its condition prior to such deterioration, decay, or damage, using the
42 same materials or those materials available which are as close as possible to the
43 original.

44 **Owner** means those individuals, partnerships, corporations or public agencies
45 holding fee simple title to real property. The term "owner" does not include individuals,

1 partnerships, corporations or public agencies holding easements or less than a fee
2 simple interest, including leaseholds, in real property.

3 **Preservation exemption covenant** means historic preservation property tax
4 exemption covenant, in substantially similar form to Florida Form No. HR3E111292,
5 indicating that the owner agrees to maintain and repair the property so as to preserve
6 the architectural, historical or archaeological integrity of the property during the
7 exemption period.

8 **Protection** means the act or process of applying measures designed to affect the
9 physical condition of a property by defending or guarding it against deterioration, loss
10 or attack, or to cover or shield the property from danger or injury.

11 **Qualifying improvement** means any change in the condition of qualifying
12 property in the ad valorem tax incentive program brought about by the expenditure of
13 money on labor or materials for the restoration, renovation or rehabilitation of such
14 property. Expenditures for interior or exterior work, including construction of
15 additions not exceeding 25 percent of the gross floor area of the qualifying property,
16 shall be included in the meaning of improvement for purposes of this chapter. The
17 property owner must document to the satisfaction of the historic preservation
18 commission that the total expenditure on the project within the two years prior to the
19 date of submission of the final application equals or exceeds 25 percent of the
20 assessed value of the property in the year in which the qualifying improvement was
21 initiated. An amount equal to \$2,500.00 or 15 percent of the amount spent on the
22 qualifying improvement, whichever is more, must be an expenditure on work to the
23 exterior of the historic structure.

24 **Qualifying property** means real property in the city which is:

- 25 (1) Designated as a local historic landmark by the city; or
26 (2) Within the boundaries of an historic district designated by the city and
27 ~~deemed found by the historic preservation commission~~ to be a contributing
28 property to that district; or
29 (3) Property listed on the National Register of Historic Places and property within
30 National Register Historic District and ~~deemed found~~ to be a contributing
31 property to that district; and
32 (4) Must be a qualifying property on the date that the historic rehabilitation tax
33 exemption is approved by the city council.

34 ~~**Quorum** means a majority of the membership of the historic preservation~~
35 ~~commission.~~

36 **Reconstruction** means the act or process of reassembling, reproducing or
37 replacing by new construction the form, detail, and appearance of a property and its
38 setting as it appeared at a particular period of time by means of the removal of later
39 work or by the replacement of missing earlier work or by reuse of the original
40 materials.

41 **Rehabilitation** means the act or process of returning a property to a state of
42 utility through repair, remodeling, or alteration which makes possible efficient
43 contemporary use while preserving those portions or features of the property which
44 are significant to its historic architectural or cultural value.

1 **Relocation** means any change in the location of a building, structure or site from
2 its present site to another site.

3 ~~**Resource** means a source or collection of buildings, structures, sites or areas that~~
4 ~~exemplify the historical, cultural, social, economic, political, aesthetic, architectural or~~
5 ~~archaeological history of the city, the state or the nation.~~

6 **Restoration** means the act or process of accurately recovering the form and
7 details of a building, structure or site and its setting as it appeared at a particular
8 period of time by means of the removal of later work or the replacement of missing
9 earlier work.

10 ~~**Secretary of the Interior's Standards for Rehabilitation and Guidelines for**~~
11 ~~**Rehabilitating Historic Buildings**~~ means a federal document currently set forth in 36
12 CFR ~~67~~ 68 establishing general standards ~~and guidelines~~ for the appropriate
13 rehabilitation and preservation of historic resources, as it may be amended from time-
14 to-time. See section 114-71.

15 **Secretary of the Interior's Guidelines for Rehabilitating Historic Buildings**
16 means a federal document that provides design and technical recommendations that
17 assist in applying the Standards for Rehabilitation. See section 114-71.

18 **Significant architectural feature** means an architectural feature of a landmark,
19 landmark site or historic district that contributes significantly to identifying a
20 landmark, landmark site or historic district.

21 **Site** means the location of a significant event, a prehistoric or historic occupation
22 or activity, or a building or structure, whether standing, ruined, or vanished, where
23 the location itself maintains historical or archaeological value regardless of the value
24 of any existing structures.

25 **Stabilization** means the act or process of applying measures designed to re-
26 establish a weather-resistant enclosure and the structural stability of an unsafe or
27 deteriorated building, structure or site while maintaining the essential form as it exists
28 at the present.

29 ~~**State of emergency condition** means an unforeseen combination of events or~~
30 ~~circumstances resulting in an urgent need for assistance or relief.~~

31 **Structure** means an improvement upon real property which is built, constructed,
32 erected or tied down to a fixed location upon the ground or attached to something
33 having a permanent location on the ground, such as but not limited to buildings,
34 homes, mobile homes, towers, bridges, walls, fences, signs, fountains, monuments
35 and shore protection devices.

1 **Sec. 114-3. - Procedure for designation of historic districts.**

- 2 (a) No historic district within the city shall be designated by any city agency except as
3 provided in this chapter.
- 4 (b) Upon the recommendation of the city council or the historic preservation
5 commission a request may be submitted to the planning division to prepare or
6 assist in preparation of a designation report. An area may be identified as being
7 potentially suitable for designation as an historic district. The area shall be
8 surveyed and studied for the purpose of determining the age and significance of
9 each building, site, structure, or object within the area. Properties within the area
10 with buildings or structures that are not of such significance to be designated
11 individually but are an important part of the overall area shall be deemed as “non-
12 contributing” properties. A nomination report shall be prepared based on the
13 results of the survey. Once the district boundaries are determined, the property
14 owners shall be surveyed for their agreement with the designation and the results
15 shall be available and considered during public hearings at meetings of the
16 historic preservation commission, planning board and the city council.
- 17 (c) The historic preservation commission shall review the report and make a
18 recommendation to the planning board, accompanied by a report stating the
19 findings of the historic preservation commission, concerning the relationship
20 between the nominated historic district and the National Register criteria for
21 designation.
- 22 (d) The historic preservation commission shall determine whether the nominated
23 historic district meets the criteria for designation, based on a report stating their
24 findings regarding the relationship between the nominated historic district and the
25 National Register criteria for designation specified below. At least two of the
26 National Register criteria must be met:
- 27 (1) Value as a significant reminder of the cultural, historical, architectural or
28 archaeological heritage of the city, state or nation.
 - 29 (2) Location is the site of a significant local, state, or national event.
 - 30 (3) Identified with a person or persons who significantly contributed to the
31 development of the city, state or nation.
 - 32 (4) Identified as the work of a master builder, designer or architect whose
33 individual work has influenced the development of the city, state or nation.
 - 34 (5) Value as a building is recognized for the quality of its architecture, and it
35 retains sufficient elements showing its architectural significance.
 - 36 (6) Distinguishing characteristics of an architectural style valuable for the study
37 of a period, method of construction, or use of indigenous materials.
 - 38 (7) Suitability for preservation or restoration.
- 39 (e) The planning board shall consider the nomination request, the findings of the
40 historic preservation commission and nomination request consistency with the
41 comprehensive plan, and make a recommendation to the city council. The
42 property owners within the proposed district shall be notified by United States
43 mail at least two weeks in advance of the planning board public hearing date and
44 time.

- 1 (f) The city council shall consider the nomination, hold a public hearing, and adopt
2 an ordinance establishing an historic district, and the boundaries thereof, and
3 indicating which properties in the historic district are “non-contributing” or
4 vacant. The property owners shall be notified by United States mail at least two
5 weeks in advance of the date and time of the public hearing before city council.
- 6 (g) After designation of a historic district by the city council, the historic preservation
7 commission may by resolution reclassify a “contributing” building, structure, or
8 site as “non-contributing” to correct an error, to reflect an approved demolition or
9 relocation, or to reflect approved alterations that reduce historic significance.
- 10 (h) (g) The designation of any district may be amended or rescinded through the
11 same procedure utilized for the original designation, by the filing of an application
12 for rescission or amendment of designation utilizing the procedure hereinabove set
13 forth. Any historic preservation commission recommendation to amend or rescind
14 a prior designation shall be based on new evidence and negative evaluation
15 according to the same criteria used for designation in existence at the time of such
16 application for revision or amendment.
- 17 (i) (h) Boundaries for designated historic districts identified in or by this chapter
18 shall be clearly established.
- 19 (j) (i) All ordinances designating historic districts shall be recorded by the city clerk
20 in the public records of the county within 30 calendar days of the date the city
21 council renders its decision.
- 22 (k) Article IV of this chapter shall be updated periodically to reflect the boundaries of
23 historic districts and to identify properties within each district that have
24 contributing structures, non-contributing structures, or no structures.
- 25 (l) The historic properties database described in section 114-88 shall reflect all
26 changes to historic districts as described in article IV.
- 27 ~~(j) The planning division shall develop and maintain a list of historic districts and~~
28 ~~corresponding maps. This list shall be periodically updated, and shall contain the~~
29 ~~buildings, structures, and sites located within the boundaries of the designated~~
30 ~~historic district. (See section 114-148, historic districts legal descriptions, and~~
31 ~~section 114-149, historic landmark legal descriptions).~~

1 **Sec. 114-4. - Procedure for designation of historic landmarks.**

- 2 (a) No historic landmark within the city shall be designated by any city agency except
3 as provided in this chapter.
- 4 (b) The historic preservation commission shall seek and accept nominations of
5 buildings, sites and structures for designation as historic landmarks in the
6 following manner:
- 7 (1) The designation process under this chapter may be initiated by a written
8 petition from the property owner, by majority vote of the historic preservation
9 commission, or by vote of the city council.
- 10 (2) Nominations shall be made to the historic preservation commission on
11 application forms available from community development services.
12 Applications shall be accompanied by sufficient information to warrant further
13 investigation of the property and to aid in the preparation of a designation
14 report.
- 15 (3) A complete application shall include the names of all owners of the property
16 proposed for designation, a description of the proposed landmark including its
17 location, a statement of significance as defined by the criteria for designation
18 established below. At least two of the National Register criteria must be met:
- 19 a. Its value as a significant reminder of the cultural, historical, architectural
20 or archaeological heritage of the city, state or nation.
- 21 b. Its location is the site of a significant local, state, or national event.
- 22 c. It is identified with a person or persons who significantly contributed to
23 the development of the city, state or nation.
- 24 d. It is identified as the work of a master builder, designer or architect whose
25 individual work has influenced the development of the city, state or
26 nation.
- 27 e. Its value as a building is recognized for the quality of its architecture, and
28 it retains sufficient elements showing its architectural significance.
- 29 f. It has distinguishing characteristics of an architectural style valuable for
30 the study of a period, method of construction, or use of indigenous
31 materials.
- 32 g. Its suitability for preservation or restoration.
- 33 (4) Boundaries for properties which meet the criteria for designation identified in
34 this chapter shall be clearly established.
- 35 (5) If the application is submitted by someone other than the property owner, a
36 copy of the application shall be immediately forwarded to the owner of record
37 by certified mail.
- 38 (6) Upon notification, any owner or owners of property who object to the proposed
39 designation shall return a notarized affidavit to the historic preservation
40 commission certifying that the party is the sole or partial owner of the property
41 and that they object to the proposed designation. A blank affidavit of
42 consent/objection shall be mailed to each property owner together with the
43 notice of proposed designation as provided above. The property owner shall be
44 advised that in order to object to the proposed designation the notarized

1 affidavit of objection must be completed and returned within 30 days after
2 receipt as evidenced by the certified mail receipt.

3 (7) The historic preservation commission shall review the nomination and make a
4 recommendation to the planning board accompanied by a report stating the
5 findings of the historic preservation commission concerning the relationship
6 between the nominated historic landmark and the National Register criteria
7 for designation identified above.

8 (8) The planning board shall consider the nomination, findings of the historic
9 preservation commission and consistency with the comprehensive plan. If the
10 property owner consents to the proposed landmark designation, the
11 nomination will be presented to the historic preservation commission for
12 consideration and designation as a landmark. All historic landmarks approved
13 by the historic preservation commission presented to city council for
14 consideration and adoption by ordinance. The property owner shall be notified
15 by mail at least two weeks prior to the planning board public hearing. If the
16 property owner objects to the designation, the planning board shall forward
17 the notarized affidavit containing their objection with their recommendation of
18 the nomination to city council for consideration.

19 (9) If the owner objects to the landmark designation, city council shall consider
20 the nomination, hold a public hearing, and may adopt an ordinance
21 establishing an historic landmark, and the boundaries thereof provided that at
22 least two of the National Register criteria are met and the report presented
23 supports the designation. The city council shall be the only entity to designate
24 a landmark without the property owner's consent. Boundaries of designated
25 landmarks must be clearly established by a legal description of the property
26 and a site map. The property owner shall be notified by certified mail, return
27 receipt requested at least ten days prior to the city council public hearing.

28 (10) The designation of any landmark or landmark site may be amended or
29 rescinded through the same procedure utilized for the original designation, by
30 filing an application for rescission or amendment of designation utilizing the
31 procedure hereinabove set forth. Any historic preservation commission
32 recommendation to amend or rescind a prior designation shall be based on
33 new evidence and negative evaluation according to the same criteria used for
34 designation in existence at the time of such application for revision or
35 amendment.

36 (c) All ordinances designating historic landmarks shall be recorded by the city clerk
37 in the public records of the county within 30 calendar days of adoption by city
38 council and retained on file in the city clerk's office.

39 (d) Article IV of this chapter shall be updated periodically to reflect historic landmark
40 designations.

41 (e) The historic properties database described in section 114-88 shall reflect all
42 changes to historic landmark designations as described in article IV.

43 ~~(d) The planning division shall develop and maintain a list of historic landmarks and~~
44 ~~site maps denoting their location. This list shall be periodically updated upon~~
45 ~~amendment, shall contain all city designated historic landmarks and be filed in~~

1 the office of the city clerk. (See section 114-149, historic landmarks legal
2 descriptions.)

3 **Sec. 114-5. - Compliance.**

- 4 (a) The building official shall not issue a building permit for any exterior alteration,
5 construction, relocation or demolition of a building, structure or site within an
6 historic district or for a historic landmark or landmark site unless a certificate of
7 review has been approved and issued in accordance with section 114-71, except
8 when a certificate of review is not required by explicit terms of section 114-71, by
9 the historic preservation commission except in the event of ordinary repair and
10 maintenance and where such ordinary repair and maintenance does not change
11 the appearance of the building, structure or site.
- 12 (b) Any exterior alteration, construction or demolition to a building, structure or site
13 shall be accomplished in strict compliance with the certificate of review. The
14 building official shall, as a part of his official duties, inspect the building to
15 determine compliance with the certificate. Failure to comply with the certificate of
16 review shall be treated in the same manner as any other building code or building
17 permit violation, including revocation of the permit and would constitute a
18 violation punishable as provided in section 1-14

19 **Sec. 114-6. - Demolition by intent or neglect.**

- 20 (a) The historic preservation commission may provide an advisory opinion on
21 conditions of neglected historic landmarks or structures to the code enforcement
22 board in the event that the historic preservation commission finds that:
- 23 (1) An applicant for the demolition of a landmark, building, structure or
24 contributing building or structure located in a historic district has
25 compromised the architectural integrity of the building or structure by
26 intentionally or willfully neglecting the property; or
- 27 (2) A property owner for the demolition of a landmark, building, structure or
28 contributing building or structure located in a historic district has
29 compromised the architectural integrity of the building or structure by
30 intentionally or willfully neglecting the property.
- 31 (b) Failure to perform ordinary repairs or maintenance shall constitute cause for
32 demolition by neglect and shall be treated in the same manner as the failure to
33 comply with certificate of review and would constitute a city Code violation
34 regarding demolition without permit.

1 **Sec. 114-7. - Maintenance of designated properties.**

2 (a) The owner of a designated landmark, ~~building, structure or a contributing~~ or any
3 building or structure within an historic district whether contributing or non-
4 contributing, shall maintain those exterior portions of such buildings or
5 structures which, if not maintained, may cause such buildings or structures to
6 deteriorate or to become damaged or otherwise to produce or tend to produce, in
7 the judgment of the historic preservation commission, a detrimental effect upon
8 the character of the district as a whole or the life and character of the building or
9 structure, including but not limited to:

- 10 (1) The deterioration of exterior walls or other vertical supports;
11 (2) The deterioration of roofs or other horizontal members;
12 (3) The deterioration of exterior chimneys;
13 (4) The deterioration or crumbling of exterior plaster or mortar;
14 (5) The ineffective waterproofing of exterior walls, roofs and foundations,
15 including broken windows or doors.

16 (b) A notification shall be sent by the historic preservation commission to the code
17 enforcement division for action in the event that the historic preservation
18 commission determines that a designated landmark, ~~building or structure~~ or a
19 ~~contributing~~ building or structure within an historic district is in the course of
20 being demolished by neglect. This process prevents a person from forcing the
21 demolition of their building or structure by neglecting it and permitting damage to
22 it by weather or vandalism.

23 **Sec. 114-8. - Unauthorized alterations.**

24 When the historic preservation commission or community development
25 department director, or designee, determines that a building, structure, or site located
26 within a historic district or which has been designated a historic landmark pursuant
27 to this section has been altered in violation of this section, the historic preservation
28 commission or community development department director, or designee, may notify
29 the code enforcement division to initiate code enforcement procedures. Any such
30 property altered without obtaining a certificate of review requires an application to be
31 filed with the historic preservation commission for a certificate of review prior to any
32 further work being completed.

33 **Secs. 114-9—114-40. - Reserved.**

1 **ARTICLE II. - HISTORIC PRESERVATION COMMISSION**

2 **Sec. 114-41. - Composition; qualifications of members.**

3 Pursuant to the Charter, including but not limited to sections 8, 83 and 107, the
4 historic preservation commission shall be composed of seven members and two
5 alternate members to serve in the absence of a member. The historic preservation
6 commission shall consist of members who are professional who shall be selected from
7 the disciplines of architecture, history, architectural history, planning, construction,
8 land use law, archaeology or other historic preservation related disciplines. Each
9 historic district shall be represented by one member. In the event that there are not
10 enough professionals in the city to fill all positions, membership may include
11 laypersons who have demonstrated special interest, experience, or knowledge in
12 history, architecture, or related disciplines. Members of the historic preservation
13 commission shall be residents of the city, where possible. Each historic district shall
14 be represented by one member of the commission who shall represent that historic
15 district and shall either reside, own property, operate a business, or maintain an office
16 within the historic district they represent. The member of the historic preservation
17 commission representing the historic district should be selected based upon the
18 professional qualifications set forth herein, unless there are no applicants from those
19 disciplines. In that case, laypersons demonstrating interest in historic preservation
20 shall be appointed.

21 **Sec. 114-42. - Appointment, terms of members.**

22 Each council member shall nominate one member and the mayor shall nominate
23 one member and the two alternate members with all members to be appointed by the
24 city council. After consideration of each nominee, the city council collectively shall
25 make such appointments to the historic preservation commission as it deems
26 appropriate. Nominees to the historic preservation commission that are not appointed
27 by the city council shall be replaced with a new nomination from the person who holds
28 the position of the elected official making the original nomination. The city council
29 shall make the final decision on all appointments to the historic preservation
30 commission. The members shall serve for a term of three years. Any member of the
31 historic preservation commission may be reappointed from term-to-term upon
32 nomination by the person holding the position of the elected official making the
33 original nomination and appointment by the city council in the manner as provided in
34 this section. Appointments to fill a vacancy on the historic preservation commission
35 shall be made in the same manner as the original appointment as provided in this
36 subsection for the remainder of the unexpired term. Vacancies shall be filled within 60
37 days. Members of the historic preservation commission shall serve at the pleasure of
38 the city council. After nomination and appointment, the members of the historic
39 preservation commission shall be sworn in by the city clerk to perform the duties of
40 the office.

1 **Sec. 114-43. - Compensation.**

2 Members of the historic preservation commission shall serve without
3 compensation.

4 **Sec. 114-44. - Advisory staff.**

5 The community development department, with the assistance of the building
6 official and city attorney, shall serve as advisory staff to the historic preservation
7 commission. The city attorney, or his designee, shall serve as sergeant at arms and
8 ensure that order and decorum are maintained during any meeting of the historic
9 preservation commission. As part of this role, the city attorney shall, in the event the
10 commission strays from the appropriate criteria listed in this chapter while
11 deliberating, formally redirect the historic preservation commission and instruct the
12 members that they must base their decisions on the appropriate criteria.

13 **Sec. 114-45. - Meetings and quorum.**

14 The historic preservation commission shall meet at least four times each year, and
15 a quorum shall consist of a majority of the members appointed but no less than three.
16 Any member failing to attend four meetings in any 12-month period shall be
17 considered to have resigned the position and the vacancy shall be filled by city council
18 as any other vacancy. The department responsible for the historic preservation
19 commission shall monitor attendance of board members and shall notify the city clerk
20 when a member's absences exceed three meetings in any 12-month period. At that
21 time, the city clerk shall give notice to such board member that automatic removal will
22 occur at such time as there are four absences of scheduled meetings.

23 **Sec. 114-46. - Duties, responsibilities and powers.**

24 The historic preservation commission shall be responsible for identifying and
25 maintaining the city's historic resources for the benefit of the city residents, both now
26 and in the future, through the development and administration of a comprehensive
27 historic preservation program. The historic preservation commission shall have the
28 power and authority to:

- 29 (1) Identify and recommend designation of local historic districts, local historic
30 landmarks, and local historic objects.
- 31 (2) Recommend to rescind the designation of local historic districts, local historic
32 landmarks, and local historic objects.
- 33 (3) Review new construction, alterations, relocations and demolitions within
34 each historic district and of local historic landmarks.
- 35 (4) Identify and nominate eligible properties to the National Register of Historic
36 Places and administer applications for the National Register.

- 1 (5) Notify appropriate local officials, owners of record, and applicants of
2 proposed commission actions concerning a proposed nomination to the
3 National Register.
- 4 (6) Oversee the development and maintenance of a historic properties ~~maintain a~~
5 database and a system for survey and inventory of historic properties (see
6 section 114-88). ~~The inventory shall be:~~
- 7 a. ~~Compatible with the state master site file.~~
- 8 b. ~~Kept current and regularly provided to the state historic preservation~~
9 ~~officer for incorporation in the state master site file.~~
- 10 (7) Identify and make recommendations regarding city policies which have an
11 effect upon historic resources.
- 12 (8) Coordinate local activities with state and national preservation efforts, and
13 review relevant legislation.
- 14 (9) Further public awareness of the city's past and of preservation in general,
15 especially during "Preservation Week." The commission should schedule at
16 least one workshop every year promoting preservation and city preservation
17 programs.
- 18 (10) Allow for public participation in the designation of historic districts and
19 historic landmarks, including the process of recommending properties for
20 nomination to the National Register.
- 21 (11) Inform the public of the commission's activities and of preservation needs in
22 the community.
- 23 (12) Adopt rules of procedures, and assure their availability to the general public.
- 24 (13) Make recommendations to the city council concerning the acquisition of
25 development rights, facade easements, and the imposition of other
26 restrictions and the negotiation of contracts for the purpose of historic
27 preservation.
- 28 (14) Evaluate and make recommendations to city council regarding decisions by
29 other public agencies affecting the physical development and land use
30 patterns affecting districts or landmarks.
- 31 (15) Recommend to the city council to adopt ~~supplemental~~ design guidelines and
32 amendments thereto, which will apply to proposed changes in the exterior
33 appearance of individual landmarks or buildings, structures, or sites in
34 historic districts. The purpose of the design guidelines is to conserve and
35 enhance the special aesthetic, historical and cultural character of the
36 landmark or the historic district. The design guidelines, upon adoption by
37 city council, will supplement this chapter, growth management code and the
38 Secretary of the Interior's Standards for Rehabilitation and Guidelines for
39 Rehabilitating Historic Buildings. The design guidelines may be amended
40 from time-to-time by city council upon recommendation by the historic
41 preservation commission and will ~~may~~ be published in the form of an
42 illustrated manual. Design guidelines may govern any aspect of physical
43 design, including but not limited to architectural and aesthetic character,
44 site design, site layout, signage and landscape design.

- 1 (16) Approve or deny applications for certificates of review for alteration,
2 construction, demolition or relocation of landmarks, buildings, structures,
3 sites or building within historic districts.
- 4 (17) Recommend to the city council properties that qualify for the historic
5 preservation ad valorem tax incentive program.
- 6 (18) Recommend to the city council properties in historic districts that should be
7 redesignated from “contributing” to “non-contributing” or from “non-
8 contributing” to “contributing” (see section 114-3).

9 **Secs. 114-47—114-70. - Reserved.**

1 **ARTICLE III. - CERTIFICATE OF REVIEW**

2 **Sec. 114-71. Certificates of review required.**

3 (a) **When required.** A certificate of review must be obtained:

4 (1) Before altering, relocating, or demolishing any structure, and before any new
5 construction, within a historic district that has been designated by the City of
6 Fort Myers.

7 (2) Before altering, relocating, or demolishing any structure, and before any new
8 construction, on the site of a landmark that has been designated by the City
9 of Fort Myers.

10 (3) Before demolishing any undesignated building that has potential historic
11 significance; see section 114-74.

12 (b) **When not required.** A certificate of review is not required for the following
13 activities, as described later in this article:

14 (1) A certificate of review is not required for ordinary repair and maintenance that
15 does not change the design, material, or appearance of exterior elements; see
16 section 114-72(a)(1).

17 (2) The color of paint on painted surfaces may be changed without a certificate of
18 review. However, see section 114-72(a)(2) for criteria regarding painting of
19 unpainted surfaces including brick and stucco.

20 (3) During a state of emergency, certain required repairs may be made without a
21 certificate of review; see section 114-76.

22 (c) **Criteria.** Criteria for the issuance of certificates of review are found here and in
23 sections 114-72 through 114-75.

24 (1) These criteria include references to design guidelines that are contained in
25 Chapters II and III of the manual, “Design Guidelines for Historic Preservation.”
26 Chapters II and III of this manual, as revised through _____, 2017, are
27 adopted by reference as though set forth fully herein. Other chapters of this
28 manual contains additional explanatory material about historic preservation
29 in the City of Fort Myers.

30 (2) Design guidelines will be evaluated in a manner that takes into account
31 technical feasibility and avoids creating unreasonable economic hardships.

32 (3) In historic districts, some criteria distinguish between properties that have
33 been deemed “contributing” or “non-contributing” to the historic district, as
34 those terms are defined in this code and as shown on historic district maps in
35 article IV. Criteria that do not make this distinction apply to both contributing
36 and non-contributing properties.

37 (4) In addition to the criteria described in sections 114-72 through 114-75,
38 consideration shall also be given to the U.S. Secretary of the Interior’s
39 Standards for Rehabilitation, which are highlighted as an appendix to Design
40 Guidelines for Historic Preservation.

1 (5) Additionally, although they are not mandatory criteria for issuance of
2 certificates of review, consideration may be given to technical advice found in
3 the U.S. Secretary of the Interior’s *Guidelines for Rehabilitation of Historic*
4 *Buildings*, part of which is reprinted as an appendix to *Design Guidelines for*
5 *Historic Preservation*.

6 (d) **Issuance by historic preservation commission.** Certificates of review are issued
7 through adoption of a resolution by the historic preservation commission.

8 (e) **Administrative issuance for minor exterior work.** In certain cases, this code
9 specifically authorizes administrative approval of certificates of review for minor
10 exterior work that does not involve substantial alterations, additions, or demolition
11 that could impair the integrity of a building or structure. When so authorized,
12 administrative approval may be issued through a letter from the community
13 development director for applications that meets the same review criteria that
14 would be used by the historic preservation commission. The community
15 development director may also refer an application for minor exterior work to the
16 historic preservation commission for a decision. Appeals of staff decisions will be
17 decided by the historic preservation commission.

18 **Sec. 114-72. Review criteria for existing buildings.**

19 For maintaining, improving, and expanding existing buildings, evaluation of
20 applications for certificates of review will consider the design guidelines described
21 below as applied to the alteration and building in question. These design guidelines
22 are found in Chapter II of “*Design Guidelines for Historic Preservation*.”

23 (a) **Criteria for maintenance and improvements.**

24 (1) **Ordinary repair and maintenance.** Guidance for ordinary repair and
25 maintenance can be found in Chapter II, section A.1. Certificates of review are
26 not required for ordinary repair and maintenance that does not change the
27 design, material, or appearance of exterior elements, as further described in
28 section A.1.

29 (2) **Painting.** Paint colors are a matter of personal taste and are easily changed,
30 so color changes do not require a certificate of review. Painting of unpainted
31 brick or masonry is rarely acceptable. Guidance on painting can be found in
32 Chapter II, section A.2.

33 (3) **Replacement windows and doors.** Replacement windows and doors should
34 respect the original character of historic buildings by retaining the original
35 configuration and details of windows and doors. Design guidelines are found
36 in Chapter II, section A.3. A certificate of review may be approved
37 administratively for replacement windows or doors on non-contributing
38 buildings, and on contributing buildings where the changed openings do not
39 face a street and are less than 10% of existing openings.

40 (4) **Substitute siding and trim.** Siding and trim should not be covered by
41 materials that would change the building’s character. Design guidelines are
42 found in Chapter II, section A.4. A certificate of review may be approved
43 administratively for substitute siding or trim on non-contributing buildings.

- 1 (5) **Replacement roofing.** Roofs should be maintained in their original styles
2 and materials except when minor changes would not alter the overall
3 character of the building. Design guidelines are found in Chapter II, section
4 A.5. A certificate of review may be approved administratively for changes in
5 roof material on non-contributing buildings.
- 6 (6) **Porches.** Porches should retain their original configuration and materials.
7 Design guidelines are found in Chapter II, section A.6. A certificate of review
8 may be approved administratively for changes to porches not on the main
9 facade or a readily visible side facade.
- 10 (7) **Fences.** Fences in front yards make a strong visual contribution to the
11 historic streetscape and should not be removed or made incompatible with
12 historic styles. Design guidelines are found in Chapter II, section A.7. A
13 certificate of review may be approved administratively for changes to fences
14 that meet all of these guidelines or are not visible from a street.
- 15 (8) **Handicapped access.** Handicapped access should be provided in ways that
16 maintain the character of the building and site. Design guidelines are found in
17 Chapter II, section A.8. A certificate of review may be approved
18 administratively for handicap access facilities that are not visible from a
19 street.
- 20 (9) **Accessory buildings.** Changes to accessory buildings such as garages and
21 carports should avoid negative impacts on historic streetscapes. Design
22 guidelines are found in Chapter II, section A.9. A certificate of review may be
23 approved administratively for side or rear accessory buildings that meet all of
24 these guidelines and for accessory building that are not visible from a street.

25 (b) ***Additional criteria for commercial and mixed-use buildings.***

- 26 (1) **Replacement storefronts.** Storefronts need to evolve to meet current
27 economic and code requirements but must respect the historic character of
28 commercial districts and mixed-use buildings. Design guidelines are found in
29 Chapter III, section B.1.
- 30 (2) **Signs.** Signs should not damage or conceal architectural details or
31 overwhelm the pedestrian scale of historic districts. Design guidelines are
32 found in Chapter II, section B.2. A certificate of review may be approved
33 administratively when signs are being updated without changing their
34 character or increasing lighting.

35 (c) ***Criteria for enlarging buildings.***

- 36 (1) **Additions.** Additions to a building should not visually overpower the original
37 building, compromise its historic character, or destroy significant features or
38 materials. Design guidelines are found in Chapter II, section C.

1 **Sec. 114-73. Review criteria for relocating buildings.**

2 Before an existing building may be relocated, evaluation of an application for a
3 certificate of review will consider the guidelines found in Chapter III, section A, of
4 “Design Guidelines for Historic Preservation.”

- 5 (a) For buildings that would be moved out of a historic district, these guidelines
6 distinguish between contributing buildings and non-contributing buildings.
- 7 (b) For buildings that would be moved into a historic district, these guidelines
8 evaluate the architectural style and placement of the building on the new site.
- 9 (c) For buildings that would be moved within a historic district, these guidelines
10 evaluate both the existing site and the new site.
- 11 (d) Guidelines are also provided for documentation of the original setting and physical
12 aspects of the building and the moving process.

13 **Sec. 114-74. Review criteria for demolishing buildings.**

14 In rare cases, demolition of a historic building may be justifiable despite damaging
15 the historic conditions which were the basis of its designation. For an existing building
16 proposed for demolition, evaluation of an application for a certificate of review will
17 consider the guidelines found in Chapter III, section B, of “Design Guidelines for
18 Historic Preservation.”

- 19 (a) **Dangerous condition.** The Building Official may determine a dangerous
20 condition that requires immediate demolition. A certificate of review may be
21 approved administratively in this situation.
- 22 (b) **Economic hardship.** A property owner may apply for a designation of
23 unreasonable economic hardship when requesting a certificate of review for
24 demolition.
- 25 (c) **Insignificant accessory buildings.** A certificate of review may be approved
26 administratively for the demolition of insignificant accessory buildings.
- 27 (d) **Non-contributing buildings or structures.** A non-contributing building may be
28 demolished to allow its replacement with a building that meets the criteria for new
29 buildings in historic districts (see section 114-75).
- 30 (e) **Contributing buildings or structures.** In the rare cases where a contributing
31 building is allowed to be demolished, appropriate mitigation measures will be
32 required.
- 33 (f) **Demolition of non-designated buildings.** The demolition of a building with
34 potential historic significance will be reviewed by the historic preservation
35 commission even if the building has not been formally designated, as described in
36 Chapter III, section B.2.

1

2 **Sec. 114-75. Review criteria for new construction.**

3 For new construction in historic districts and on landmark sites, evaluation of
4 applications for certificates of review will consider the guidelines found in Chapter III,
5 section C of “Design Guidelines for Historic Preservation.” These guidelines address
6 major aspects of new construction so that new buildings and other improvements will
7 complement and enhance historic areas rather than compromise their integrity:

8 (1) **Height.** The height of new buildings should be reasonably similar to historic
9 buildings on the same or adjoining blocks.

10 (2) **Proportion.** New buildings should be similar to nearby buildings in
11 proportion of width to height.

12 (3) **Rhythm.** The building’s façade should maintain the rhythm of the historic
13 streetscape. Entrances should be oriented to the street, and blank walls or
14 garage doors should never dominate a prominent façade.

15 (4) **Setbacks.** The distance from the building to the front property line should be
16 similar to adjacent and nearby buildings, even if that distance is greater than
17 required by current city codes.

18 (5) **Materials and texture.** New buildings should be compatible with adjacent
19 and nearby buildings on the block as to materials and texture.

20 (6) **Roof shapes.** Roofs for new buildings should be similar to nearby buildings.

21 (7) **Architectural details and decorative features.** The design of new buildings
22 should take their cues from the basic forms and decorative elements of local
23 historic buildings.

24 (8) **Infrastructure.** Infrastructure upgrades should enhance rather than detract
25 from the character of historic districts. Changes can dramatically affect the
26 character of streets, alleys, sidewalks, street trees, on-street parking, lighting,
27 etc.

28 **~~Sec. 114-71. - When required.~~**

29 ~~(a) No building, relocation or demolition permit shall be issued for a designated~~
30 ~~landmark, landmark site, building or structure located within a designated~~
31 ~~historic district, and no historic landmark shall be altered, relocated, constructed~~
32 ~~or demolished, until an application for a certificate of review has been approved.~~
33 ~~Applications for certificates of review shall be evaluated in accordance with the~~
34 ~~criteria for contributing and new construction/noncontributing properties as~~
35 ~~specified herein.~~

36 ~~(b) A certificate of review shall not be required for repair and maintenance, in kind~~
37 ~~replacement of materials or painting historic materials, which are currently~~
38 ~~painted (i.e. wood, brick or stucco).~~

1 ~~(c) Activities, such as, but not limited to, changes to or installation of items listed~~
2 ~~below to be performed on or in connection with any building, structure, site, listed~~
3 ~~on the local register shall require a certificate of review, except as delineated in~~
4 ~~section 114-73 Administrative review and determination for minor exterior work,~~
5 ~~Table 1. Approval Matrix.~~

6 ~~(1) Awnings or canopies.~~

7 ~~(2) Decks.~~

8 ~~(3) Doors, door frames, storefronts.~~

9 ~~(4) Exterior walls.~~

10 ~~(5) Fencing.~~

11 ~~(6) Fire escapes, exterior stairs, exterior elevators, and ramps for the~~
12 ~~handicapped.~~

13 ~~(7) Painting of historically unpainted surfaces including wood, stone, brick, terra~~
14 ~~cotta, concrete and marble.~~

15 ~~(8) Porch and balcony railings or decorative detailing.~~

16 ~~(9) Roofs.~~

17 ~~(10) Siding.~~

18 ~~(11) Skylights.~~

19 ~~(12) Screen windows and doors.~~

20 ~~(13) Windows and window frames.~~

21 (14) Parapet wall.

22 ~~**Sec. 114-72. - Exemptions.**~~

23 ~~Nothing in this article shall be construed to prevent or discourage repair and~~
24 ~~maintenance, in kind replacement which includes repairs of the exterior elements of~~
25 ~~any historic landmark, building, structure, site or any property within a designated~~
26 ~~historic district when such maintenance and repairs do not involve a change of design,~~
27 ~~material, or appearance. A certificate of review shall not be required for maintenance~~
28 ~~or changes in color to materials that are currently painted.~~

29 ~~**Sec. 114-73. - Administrative review and determination for**~~ 30 ~~**minor exterior work.**~~

31 ~~A certificate of review, when determined by the planning division to involve minor~~
32 ~~works, shall be reviewed by the planning division in accordance with the Secretary of~~
33 ~~the Interior's Standards for Rehabilitation and the Land Development Code.~~
34 ~~Administrative approval may be granted by the historic preservation planner and the~~
35 ~~community development director in accordance with Table 1. Approval Matrix. The~~
36 ~~planning division may defer the decision for approval to the historic preservation~~
37 ~~commission at the discretion of the planning division. Appeals of staff determinations~~
38 ~~will be decided by the historic preservation commission.~~

Table 1. Approval Matrix

Action	Contributing		Non-Contributing	
	Admin.	COR	Admin.	COR
Additions				
1. All Additions		X		X
Canvas Awnings				
1. On a primary or street facade		X	X	
2. All other facades	X		X	
Carports				
1. Addition		X		X
2. Enclosure		X	X	
Decks				
1. Not visible from the right of way	X		X	
2. With a structure (trellis, etc.) and visible		X	X	
Demolition				
1. Non-historic addition	X		X	
2. All others		X		X
Doors, Garage Doors & Windows				
1. Change in material or style		X	X	
2. Change in opening greater than 10% of existing opening on the primary or street facade		X		X
3. Change in opening greater than 10% of existing opening on a secondary or non-street		X	X	
Exterior Materials & Appurtenances				
1. Siding		X	X	
2. Trim/Fascia		X	X	
3. Gutters				
-a. Visible from street		X	X	
-b. Not visible from street	X		X	
4. Lighting		X	X	
5. Mechanical Systems				
-a. Impact to structure		X	X	
-b. No impact to structure	X		X	
–Restoration with documentation	X		X	

Hardscape					
	1. Driveways (any material)			X	X
	2. Sidewalks			X	X
	3. Patios				
	-a. Visible from street			X	X
	-b. Not visible from street	X		X	
	4. Pool & Pool decks				
	-a. Visible from street			X	X
	-b. Not visible from street	X		X	
	5. Landscape element	X		X	
Porches					
	1. Open or enclosed porch				
	-a. With documentation	X		X	
	-b. Without documentation			X	X
	2. Porch enclosure on main facade			X	X
	3. Porch enclosure on secondary facade			X	X
Roof					
	1. Change in material			X	X
	2. Change in shape			X	X
	3. Alteration to character elements (skylights,			X	X
Shutters					
	1. Removable	X		X	
	2. Permanent & visible			X	X
	3. Permanent & not visible	X		X	
Site Elements					
	1. Fencing/Pergolas/Arbors				
	-a. Visible from the street			X	X
	-b. Not visible from the street	X		X	
	2. Storage shed				
	-a. Custom designed	X		X	
	-b. Pre Fabricated			X	X

1 *Note: The planning division shall have discretion to defer to any level of approval to the historic*
2 *preservation commission.*

3 **Sec. 114-76—80. – Reserved.**

1 **Sec. 114-81 74. - State of emergency repairs.**

2 In the case of a declared state of emergency condition and the building official
3 determines a historic structure, building, object or site or a structural improvement,
4 landscape feature or archaeological site within a designated historic district to be
5 imminently dangerous to life, health or property, nothing contained in this chapter will
6 prevent the temporary construction, reconstruction, demolition or other repairs. The
7 owner of a historic structure, building, object or site or a structural improvement,
8 landscape feature or archaeological site within a designated historic district damaged
9 by a natural disaster will be permitted to immediately stabilize and to later rehabilitate
10 pursuant to the procedures required by this chapter including the notice
11 requirements. Every effort shall be made to comply with the intent of this chapter and
12 to follow the design guidelines of the historic preservation commission when
13 remedying the emergency conditions. The remaining repairs or reconstruction shall be
14 reviewed by the historic preservation commission according to the procedures outlined
15 in this chapter. The required seven-day notification period for a public hearing before
16 the historic preservation commission as described in this chapter will not be required
17 as a result of a natural disaster. The owner may request a special meeting of the
18 historic preservation commission to consider an application for a certificate of review
19 for permanent repairs. The property shall be posted immediately upon notification of
20 the state of emergency condition.

21 **Sec. 114-82 75. - Applications required for public utilities.**

22 The city and all public and private utility companies shall be required to obtain a
23 certificate of review for landmarks, landmark sites, and within historic districts prior
24 to initiating any changes in the appearance of utility installations, lift stations, streets,
25 sidewalks, lighting, walls, fences, structures and buildings on property, easements or
26 streets owned or franchised by the city. Examples of specific items which fall under
27 ordinary repair and maintenance ~~or repair~~ which does not alter or change to any
28 degree the appearance will not require a certificate of review are as follows:

- 29 (1) Underground utilities, except where archaeological finds or sites are
30 uncovered;
- 31 (2) Extension or upgrading of service to customers for equipment such as meters,
32 valves and cleanouts;
- 33 (3) Changes in type or amount of mechanical equipment such as interfaces,
34 transformers or traffic control devices on existing overhead lines, poles or
35 ground-mounted installations;
- 36 (4) Deletion or replacement of poles of standard material and height, not to
37 exceed 45 feet;
- 38 (5) Addition or deletion of fire hydrants;
- 39 (6) Routine replacement of street and regulatory signs;
- 40 (7) Any upgrading of facilities to comply with National Electrical Safety Code.
- 41 (8) Addition of equipment on existing lines or poles;
- 42 (9) Replacement of existing overhead lines, poles or ground-mounted installation;

- 1 (10) Street paving, sidewalk and curb and gutter replacement following
- 2 consultation with historic preservation commission;
- 3 (11) Stormwater drainage repair;
- 4 (12) Routine replacement of pavement markings;
- 5 (13) Replacement of existing lift stations.

6 **Sec. 114-83 76. - Application procedure.**

- 7 (a) The historic preservation commission shall adopt rules prescribing the procedure
- 8 for making and reviewing applications for a certificate of review and the form and
- 9 content thereof.
- 10 (b) The commission shall, within 60 days of receipt of a complete application package
- 11 by the planning division, hold a public hearing upon each application for a permit
- 12 under this chapter article. Notice of the hearing shall be posted on the property at
- 13 least seven days prior to the date of the hearing. The notice shall specify the time
- 14 and place of the hearing and the matter to be considered.
- 15 (c) The commission shall use the criteria set forth in this chapter article to review
- 16 completed applications. After a complete review of the application and fulfilling the
- 17 public notice and hearing requirements of this chapter article, the commission
- 18 shall take one of the following actions:
 - 19 (1) Grant the certificate of review with an immediate effective date;
 - 20 (2) Grant the certificate of review with changes or modification to building plans
 - 21 and specifications deemed necessary to satisfy the criteria for issuance of a
 - 22 certificate as set forth herein;
 - 23 (3) Grant the certificate of review with a deferred effective date which date shall
 - 24 not exceed one year from the date of issuance;
 - 25 (4) Deny the certificate of review, accompanied by a written statement expressing
 - 26 findings of fact and rationale supporting the denial; or
 - 27 (5) Grant the certificate of review if the commission finds that the property cannot
 - 28 be put to a reasonable beneficial use without the approval of the proposed
 - 29 work; in the case of income-producing property, the commission shall, before
 - 30 making its decision, determine whether the applicant can obtain a reasonable
 - 31 return from the property without the approval of the proposed work.
- 32 (d) The certificate of review shall be in writing and shall describe the project for which
- 33 issued and the type of work to be done. A copy of the certificate of review shall be
- 34 provided to the applicant within ten working days of the public hearing.

1 **Sec. 114-84. – Application requiring rezoning.**

- 2 (a) When an application for a certificate of review will require rezoning before a
3 building permit can be issued, the certificate of review application must be granted
4 or denied before the rezoning can be considered by the Planning Board.
- 5 (b) If the application is granted, the certificate of review shall be contingent on the
6 rezoning being approved.
- 7 (c) If the application is denied, an appeal that is filed pursuant to section 114-
8 85(b) will be considered by the city council concurrently with the rezoning.
- 9 (c) If the rezoning is approved in a way that requires changes to the certificate of
10 review, the changes will be considered in the same manner as the original
11 application.

12 **Sec. 114-85 77. - Finality of decisions; appeals.**

- 13 (a) ***Resubmittal of denied permit application.*** The application for a permit under
14 this chapter article, if denied by the historic preservation commission, may not be
15 resubmitted for a period of six months, except upon written request indicating
16 incorporation of changes in plans and specifications as may have been
17 recommended by the commission.
- 18 (b) ***Appeals.*** A person may appeal a decision made by the historic preservation
19 commission as follows:
- 20 (1) Any owner of a building, structure or site affected by this chapter may appeal
21 a decision of the historic preservation commission by filing a written notice of
22 appeal within 30 days of the date of the decision of the historic preservation
23 commission was rendered. The notice of appeal shall be filed with the city
24 attorney, and copies provided to the city clerk and the planning manager,
25 and shall state with specificity the decision being appealed, the grounds for
26 the appeal and a summary of the relief sought.
- 27 (2) Upon receipt of a complete notice of appeal, the city council shall be notified
28 of the hearing for the appeal.
- 29 (3) The community development department shall send written notice to all
30 property owners within 300 feet of the property filing the notice of appeal 15
31 days prior to the hearing for the appeal. Mailing labels are to be provided by
32 the appellant.
- 33 (4) Ex parte communication is not permitted during the appeals process.
- 34 (5) The city council may request employees of the city with personal knowledge
35 of relevant facts to attend hearings and produce relevant documents.
- 36 (6) The city council, in reaching a decision, must consider criteria, as well as any
37 other issues that are pertinent and reasonable, as follows:
- 38 a. Whether appeal is of a nature properly brought for decision, or whether
39 there is an established procedure for handling the request other than
40 through the appeal process.
- 41 b. The intent of this chapter applied or interpreted.

- 1 c. The effect the ruling will have when applied generally to this chapter.
2 d. Staff recommendations, the testimony of the appellant and testimony of
3 the general public must also be considered.
- 4 (7) Cases under this section will be handled as a de novo proceeding and all
5 parties will be entitled to present evidence and testimony as to any law or
6 fact supporting their position in the case.
- 7 (8) Before granting any appeal, the city council must find that an error was
8 made in the order, requirement, decision, interpretation, determination or
9 action of the historic preservation commission.
- 10 (9) The decision of the city council will be final. Judicial review of a final decision
11 of the city council will be in circuit court. The review may only be obtained
12 through filing a petition for writ of certiorari pursuant to the Florida Rules of
13 Appellate Procedure. The petition must be filed within 30 calendar days after
14 the decision has been rendered.
- 15 (10) A decision is rendered as of the date when it is approved by city council.

16 **Sec. 114-~~86~~ 78. - Certificate of review time limit.**

17 The certificate of review shall be effective from the time of approval by the historic
18 preservation commission until the expiration of the building permit obtained for the
19 specified improvements. A certificate of review is effective for two years unless there is
20 an active building permit.

21 **~~Sec. 114-79. -- Application approval and disapproval criteria.~~**

22 ~~The following criteria shall be the basis on which the historic preservation~~
23 ~~commission approves or disapproves an application for a certificate of review~~
24 ~~depending on the nature of the exterior alteration. The criteria are to be applied in a~~
25 ~~reasonable manner, taking into consideration economic and technical feasibility.~~

26 ~~(1) **The criteria for alterations to existing contributing property** shall apply in~~
27 ~~the case of exterior rehabilitation, addition or alteration to existing~~
28 ~~contributing property and shall be as follows:~~

29 ~~a. Issuance of a certificate of review for a contributing resource shall be the~~
30 ~~design guidelines adopted from time to time by city council to supplement~~
31 ~~this chapter of the growth management code and the U.S. Secretary of the~~
32 ~~Interior's Standards for Rehabilitation and Guidelines for Rehabilitating~~
33 ~~Historic Buildings, 36 CFR 67 (Revised 1990), as such standards may be~~
34 ~~amended, renumbered or replaced, which are hereby adopted by reference~~
35 ~~as though set forth fully in this article. The Secretary of the Interior's~~
36 ~~Standards shall take precedence over any conflicting additional criteria as~~
37 ~~may be enumerated below.~~

38 ~~b. An exterior addition to a historic building may seem essential; however,~~
39 ~~such new additions should be avoided, if possible, and considered only~~
40 ~~after it has been determined that the needs of the owner cannot be met by~~
41 ~~altering secondary or noncharacter defining spaces. If an exterior addition~~

1 is the only viable alternative, it should be designed and constructed to be
2 clearly differentiated from the historic building so that the character-
3 defining features are not radically changed, obscured, damaged or
4 destroyed.

5 e. ~~Alterations shall not degrade the architectural quality or historic character~~
6 ~~of the building, structure or site, but shall, to the extent possible,~~
7 ~~maintain or restore the historic design and conditions. To the extent~~
8 ~~possible, significant historic materials and features shall be retained and~~
9 ~~repaired. If beyond repair, such materials and features should be replaced~~
10 ~~in kind, if possible. In the event that it is not possible or economically~~
11 ~~feasible to replace deteriorated materials or features in kind, replacement~~
12 ~~shall duplicate the appearance of the original material, as close as~~
13 ~~possible. Restoration of missing features shall be based, to the extent~~
14 ~~possible, on site specific historical documentation or physical evidence.~~
15 ~~Conjectural design for missing features shall be discouraged.~~

16 (2) ~~**New signs** on existing buildings shall be consistent with the historic character~~
17 ~~of the building and the environment in which it is located. New signage should~~
18 ~~be designed, scaled and placed in the same manner as historic signage on the~~
19 ~~building.~~

20 (3) ~~**New construction and remodeling of noncontributing property.** The~~
21 ~~criteria shall apply in the case of new construction or exterior rehabilitation of~~
22 ~~or alterations to existing noncontributing property within a historic district as~~
23 ~~follows:~~

24 a. ~~New construction.~~

25 1. ~~Contemporary styles should be harmonious in form, material, and~~
26 ~~scale with the character of the block or historic district.~~

27 2. ~~The facade of new buildings should be aligned with the historic~~
28 ~~setbacks of the block or historic district.~~

29 3. ~~New buildings should appear similar in mass and scale with historic~~
30 ~~structures in the block or surrounding area.~~

31 4. ~~Building and roof form should match those used historically.~~

32 5. ~~Building materials should be those used historically for all major~~
33 ~~surfaces.~~

34 6. ~~Window sizes and proportions should be similar to those used~~
35 ~~historically. To create larger surfaces of glass, consider combining~~
36 ~~several standard windows in a row.~~

37 (4) ~~**Rehabilitation and alteration of noncontributing property.**~~

38 a. ~~Additions should be compatible with the size, scale, color, material, and~~
39 ~~character of the building and its environment. Additions may include~~
40 ~~porches and bay windows as well as entire wings or rooms.~~

41 b. ~~Additions should be positioned so they do not alter the historic rhythm of~~
42 ~~building fronts.~~

43 (5) ~~**Building site and landscaping.** The site and landscape plan shall be sensitive~~
44 ~~to the individual building, its occupants and needs, and shall be visually~~
45 ~~compatible with the buildings and environment with which it is visually~~

1 related, including, but not limited to site orientation, setbacks, transitional
2 moving elements, and vegetative or other screening.

- 3 ~~(6) **Demolition.** The criteria shall apply in the case of demolition of a designated~~
4 ~~landmark or a building/structure located within a historic district as follows:~~
- 5 ~~a. The historic, scenic or architectural significance of the building structures~~
6 ~~or site shall be considered.~~
 - 7 ~~b. The importance of the building or structure to the historic district shall be~~
8 ~~considered.~~
 - 9 ~~c. The difficulty or the impossibility of reproducing such a building or~~
10 ~~structure because of its design, texture, material, detail or unique location~~
11 ~~shall be considered.~~
 - 12 ~~d. The future utilization of the site, including any replacement buildings,~~
13 ~~structures or landscape, shall be considered.~~
 - 14 ~~e. Whether the building or structure is one of the last remaining examples of~~
15 ~~its kind in the neighborhood, the county or the region shall be considered.~~
 - 16 ~~f. The reasonable economic return of the building or structure shall be~~
17 ~~considered.~~
 - 18 ~~g. Upon determination by the commission that demolition or removal of a~~
19 ~~building or structure is justified, relocation of the building or structure as~~
20 ~~a mitigating action should be considered.~~
 - 21 ~~h. Upon determination by the commission that relocation of the building or~~
22 ~~structure is impractical, an archival recording, including photographic~~
23 ~~documentation, shall be made.~~

- 24 ~~(7) **Reconstruction.** The reconstruction of a building or structure damaged by~~
25 ~~fire, storm, or other act of God shall be reviewed by the commission according~~
26 ~~to the criteria in subsection (a) of this section. Totally or substantially new~~
27 ~~construction, regardless of reason, shall be reviewed according to the criteria~~
28 ~~set forth in subsection (b) of this section.~~

29 ~~(8) **Relocation.**~~

- 30 ~~a. Criteria shall apply in the case of relocation of an existing designated~~
31 ~~landmark or building/structure located within a historic district as~~
32 ~~follows:~~
- 33 ~~b. The historic character and aesthetic interest the building or structure~~
34 ~~contributes to its present location shall be considered.~~
- 35 ~~c. The future utilization of the site and the effect on the character of the~~
36 ~~surrounding district shall be considered.~~
- 37 ~~d. The ability to move the building or structure without significant damage to~~
38 ~~the building or structure shall be considered.~~
- 39 ~~e. The compatibility of the proposed relocation area with the historical and~~
40 ~~architectural character of the building or structure shall be considered.~~

1 **Sec. 114-87 80. - Demolition of unsafe historic structures.**

- 2 (a) After a structure has been determined unsafe by the building official and the
3 planning division has identified said building as historic based on the criteria set
4 forth in section 114-3(d), a certificate of review for demolition of historic structures
5 shall be prepared by the building official and presented to the historic preservation
6 commission for consideration.
- 7 (b) After the historic preservation commission makes a finding and the letter of
8 decision is rendered on an unsafe historic structure, and there is no appeal filed
9 within the 30-day period:
- 10 (1) The demolition shall proceed if the recommendation of the building official for
11 demolition of an unsafe historic structure is approved.
- 12 (2) The unsafe structure shall be secured by the code enforcement division and
13 the historic preservation commission shall annually review the status of the
14 structure as long as it is deemed unsafe, if the request for demolition by the
15 building official is denied.
- 16 (c) If an appeal is filed by the aggrieved party within the 30-day appeal period to
17 appear before city council regarding the decision of the historic preservation
18 commission on the demolition of an unsafe historic structure:
- 19 (1) The demolition shall proceed if the recommendation of the historic
20 preservation commission for demolition of an unsafe historic structure is
21 affirmed by city council.
- 22 (2) The unsafe structure shall be secured by the code enforcement division and
23 the historic preservation commission shall annually review the status of the
24 structure as long as it is deemed unsafe, if the recommendation for demolition
25 by the historic preservation commission is overturned by city council.

26 **Sec. 114-88 81. - Historic properties database.**

27 The community development department shall maintain a historic properties
28 database that includes the following information:

- 29 (1) The boundaries of designated historic districts.
- 30 (2) Which lots in each historic district have contributing structures, or only non-
31 contributing structures, or no structures on the lot.
- 32 (3) Designated historic landmarks and landmark sites.
- 33 (4) Properties and districts listed on the National Register of Historic Places.
- 34 (5) Properties listed on the Florida Master Site File.
- 35 (6) Other historic resources within the city that are not in one of the categories
36 previously listed but which may have historic significance.
- 37 (7) Collections of historic resources that may qualify as historic districts in the
38 future.

39 ~~Historic buildings, structures, sites, objects and contributing buildings within a~~
40 ~~historic district shall be listed as such in the historic properties database maintained~~
41 ~~by community development services. A building not listed on the historic properties~~
42 ~~database shall not preclude its classification or review pursuant to the certificate of~~
43 ~~review process. Buildings and structures that are located in a locally designated~~

1 ~~historic district or have been identified but have not been individually designated~~
2 ~~historic landmarks pursuant to section 114-4 and listed in the Florida Master Site File~~
3 ~~shall also be listed in the city historic properties database. Florida Master Site File~~
4 ~~properties are not necessarily designated as historic landmarks or located within~~
5 ~~historic districts but shall be denoted as eligible properties for listing.~~

6 **Secs. 114-89 82—114-120. - Reserved.**

7 **ARTICLE IV. - TAX EXEMPTION FOR REHABILITATING**
8 **HISTORIC PROPERTIES**

9 **Sec. 114-121. - Purpose.**

10 The city hereby creates the ad valorem tax exemption authorized by F.S. §
11 196.1997 et seq., for qualifying improvement of historic properties designated by the
12 city in order to accomplish the following purposes:

- 13 (1) Provide a positive financial incentive for designation of city landmarks and
14 historic districts;
- 15 (2) Encourage more restoration, rehabilitation and renovation of designated
16 historic structures in the city;
- 17 (3) Stabilize and improve property values, and enhance the property tax base of
18 the city, by encouraging improvement of designated historic structures; and
- 19 (4) Improve the appearance of designated historic landmarks and historic
20 districts in the city therefore enhancing their appeal as places to live, to work
21 or to visit.

22 **Sec. 114-122. - Qualification.**

23 Qualifying property that has completed a qualifying improvement shall be exempt
24 from that portion of ad valorem taxation levied by the city on 100 percent of the
25 increase in assessed value resulting from the substantial improvement project during
26 the exemption period.

27 **Sec. 114-123. - Exemption period.**

28 The exemption period shall be ten years, beginning on January 1 of the year
29 following the year in which final approval of the application is given by the city council
30 and the county property appraiser has been instructed to provide the historic
31 rehabilitation tax exemption. The exemption period shall continue in force even when
32 the applicant subsequently sells the property to another property owner. Property
33 owned by an entity exempt from the payment of ad valorem taxes on the date that the
34 application is filed, but subsequently sold to an owner not exempt from payment of ad

1 valorem taxes, shall be qualifying property for the remaining period of the exemption
2 following the date on which the property has been conveyed or sold to the nonexempt
3 owner.

4 **Sec. 114-124. - Application.**

5 (a) Application for the historic rehabilitation tax exemption shall be made on a form
6 approved by the historic preservation commission and provided by the city.
7 Application forms, preservation exemption covenants and summaries of deadlines
8 and application procedures shall be maintained by the planning division and shall
9 be made available to the general public.

10 (b) A final application, in proper form, shall be submitted upon completion of the
11 qualifying improvement. Every final application shall be accompanied by a copy of
12 the preservation exemption covenant signed by every property owner of record.

13 **Sec. 114-125. - Applicant.**

14 The applicant shall be the owner of record of a qualifying property, or the
15 authorized agent of the owner.

16 **Sec. 114-126. - Preconstruction application contents.**

17 Only expenditures made after the effective date of the ordinance from which this
18 article is derived may be approved. A preconstruction application shall be properly
19 filed before the qualifying improvement is completed. The preconstruction application
20 form shall be accompanied by information sufficient to determine whether the
21 proposed project involves a qualifying property and will comply with the review
22 standards contained in section 114-136, and in the ordinance designating the district
23 or landmark, if applicable. It shall also contain information concerning the proposed
24 cost of the qualifying improvement and be accompanied by a copy of the most recent
25 tax bill from the county property appraiser.

26 **Sec. 114-127. - Preconstruction application review.**

27 (a) The historic preservation commission shall hold a public hearing within 60 days of
28 the application and determine whether:

- 29 (1) The proposed work is a qualifying improvement; and
- 30 (2) The work as proposed is in compliance with the review standards contained in
31 section 114-136

32 Notice of the hearing shall be posted on the property at least seven days before the
33 hearing if the historic preservation commission determines that the work is a
34 qualifying improvement and that the work as proposed is in compliance with the
35 review standards contained in section 114-136, they shall approve the preconstruction
36 application and issue it to the applicant.

- 1 (b) If the historic preservation commission determines that the work as proposed is
2 either: (i) not a qualifying improvement; or (ii) is not in compliance with the review
3 standards contained in section 114-136, the applicant shall be so advised, and the
4 historic preservation commission shall make recommendations to the applicant
5 concerning changes to the proposed work necessary to make it a qualifying
6 improvement and bring it in compliance with the review standards.
- 7 (c) The applicant shall have 28 days following receipt of a written summary of the
8 recommendations of the historic preservation commission to resubmit the
9 preconstruction application. This time period may be extended for an additional
10 28 days by the planning manager if practical difficulties make it impossible for the
11 applicant to revise the preconstruction application within 28 days.

12 **Sec. 114-128. - Work requiring a certificate of review.**

13 If all or part of the proposed work involves exterior work involving a change in
14 design, material or an alteration in the outward appearance, the exterior portion of the
15 work shall obtain a certificate of review. The preconstruction application process may
16 be conducted simultaneously with the process for issuance of a certificate of review,
17 but no preconstruction application shall be approved until the process for issuance of
18 a certificate of review has been completed.

19 **Sec. 114-129. - Assistance from historic preservation** 20 **commission.**

21 The planning manager may request technical assistance from the historic
22 preservation commission in reviewing a final application for review of completed work.

23 **Sec. 114-130. - Final application for review of completed work.**

- 24 (a) The final application shall be accompanied by documentation that the total cost of
25 the work qualifies it as a qualifying improvement. Appropriate documentation may
26 include paid contractor's bills, canceled checks, an approved building permit
27 application listing cost of work to be performed or other information as determined
28 to be sufficient by the planning manager.
- 29 (b) The planning manager shall contact the applicant within seven days following
30 submission of a properly completed final application. The planning manager shall
31 indicate to the applicant whether:
- 32 (1) The completed work is a qualifying improvement;
 - 33 (2) The work as completed is in compliance with the review standards contained
34 in sections 114-127 and 114-136; and
 - 35 (3) The completed work is consistent with the approved preconstruction
36 application.

37 If the planning manager so determines, the final application shall be placed before
38 the city council for consideration.

- 1 (c) If the planning manager determines that the work as completed is either: (i) not a
2 qualifying improvement, (ii) not in compliance with the review standards contained
3 in sections 114-127 and 114-136; or (iii) not in compliance with the approved
4 preconstruction application, the applicant shall be advised that the final
5 application has been denied, and the planning manager shall provide a written
6 summary of the reasons for that determination, including recommendations to the
7 applicant concerning changes to the proposed work necessary to obtain approval.
- 8 (d) Upon submission of satisfactory evidence that the applicant intends to undertake
9 the work necessary to comply with the recommendations of the planning manager,
10 the denial of the final application may be continued by the planning manager for a
11 reasonable period of time, not to exceed 60 days, while the applicant makes a good
12 faith effort to comply with the recommendations.

13 **Sec. 114-131. - Interior inspection.**

14 Upon receipt of a preconstruction application or a final application involving a
15 qualifying improvement in which some of the work is in the interior of the property,
16 the planning manager may arrange with the applicant for an interior inspection. The
17 purpose of the interior inspection is to ascertain the effect, if any, of the proposed
18 and/or completed qualifying improvement on significant historical or architectural
19 features of the property.

20 **Sec. 114-132. - Approval by city council.**

- 21 (a) Every final application reviewed and approved by the planning manager or by the
22 historic preservation commission, shall be placed upon the agenda of the city
23 council for final approval at the next city council meeting following the approval.
- 24 (b) The motion of the city council approving the application shall state that the
25 exemption period is ten years, indicate the expiration date of the exemption
26 period, and contain the name of the owner and the address of the historic
27 property.

28 **Sec. 114-133. - Issuance of other permits.**

29 No certificate of occupancy or building permit or other required permit, shall be
30 issued by the city until the required certificate of review or preconstruction application
31 has been approved by the historic preservation commission and all appeal proceedings
32 have been completed, or until the applicant withdraws the tax exemption application
33 in writing.

34 **Sec. 114-134. - Appeals to historic preservation commission.**

- 35 (a) Within five days following receipt of notice that the planning manager has denied a
36 final application, the applicant may file an appeal from the determination to the
37 historic preservation commission, on a form provided by the city. Included with
38 the form shall be a copy of any recommendations made by the planning manager.

1 (b) The historic preservation commission shall review the appeal in substantially the
2 same manner as in a certificate of review as specified in section 114-76. A public
3 hearing shall be held and notice provided the applicant. The standards for review
4 contained in section 114-136 shall be the criteria applied by the historic
5 preservation commission in hearing the appeal.

6 **Sec. 114-135. - Appeal to city council.**

7 The applicant may appeal any final decision of the historic preservation
8 commission to the city council.

9 **Sec. 114-136. - Standards for review.**

10 In considering a preconstruction application or a final application, the standards
11 contained in section 114-79 and the secretary of the interior's standards for
12 rehabilitation and guidelines for rehabilitating historic buildings shall be followed.

13 **Sec. 114-137. - Completion of work.**

14 An applicant must complete all work within two years following the date of
15 approval of a preconstruction application. A preconstruction application approval shall
16 automatically be considered revoked if the property owner has not submitted a final
17 application within two years following the date of approval of a preliminary
18 application. The historic preservation commission, upon recommendation of the
19 planning manager, may extend the time for completion of a substantial improvement
20 project.

21 **Sec. 114-138. - Historic preservation exemption covenant.**

22 No final application shall be approved by the city council unless it is accompanied
23 by a properly executed historic preservation exemption covenant.

24 **Sec. 114-139. - Notice to applicant.**

25 (a) Within ten working days of any action regarding a preconstruction application or
26 final application the planning manager shall provide written notice to the
27 applicant. Each written notice shall include reasons for the decision and any
28 appropriate recommendations.

29 (b) A notice of final approval shall indicate to the applicant that the county property
30 appraiser will be instructed by the planning manager to provide the historic
31 rehabilitation tax exemption upon proper submission of evidence that the signed
32 historic preservation exemption covenant has been properly recorded.

1 **Sec. 114-140. - Notice to property appraiser.**

2 Within three working days following receipt by the planning manager from the
3 applicant of a certified copy of the recorded preservation exemption covenant, the
4 planning manager shall transmit a copy of the approved final application to the county
5 property appraiser for exemption of the cost of the substantial improvement project
6 from ad valorem taxation, with instructions that the property appraiser provide the
7 historic rehabilitation tax exemption to the applicant. A copy of the letter of
8 transmittal to the county property appraiser shall be sent to the applicant.

9 **Sec. 114-141. - Effective date.**

10 The effective date of the historic rehabilitation tax exemption shall be January 1 of
11 the year following the year in which a historic preservation exemption covenant is
12 recorded and a copy of the final application, as approved, has been transmitted to the
13 county property appraiser.

14 **Sec. 114-142. - Revocation proceedings.**

15 The planning manager may initiate proceedings to revoke the historic
16 rehabilitation tax exemption in the event that the applicant or any subsequent owner
17 or successor in interest to the property, fails to maintain the property according to the
18 terms, conditions and standards of the historic preservation exemption covenant. The
19 historic preservation commission shall provide notice to the current owner of record of
20 the property and hold a hearing in the same manner as in the certificate of review as
21 specified in section 114-76, and make a recommendation to the city council. The city
22 council shall review the recommendation of the historic preservation commission and
23 make a determination whether the historic rehabilitation tax exemption shall be
24 revoked.

25 **Sec. 114-143. - Notice of revocation.**

- 26 (a) Upon a determination by the city council that the historic rehabilitation tax
27 exemption shall be revoked, the planning manager shall provide written notice of
28 the decision to the property owner of record as well as to the county property
29 appraiser. The notice to the owner of record shall be accompanied by reasons and
30 recommendations for changes to the property that may result in reinstatement of
31 the exemption.
- 32 (b) Upon receipt of a notice of revocation, the county property appraiser shall
33 discontinue the historic rehabilitation tax exemption on the property as of
34 January 1 of the year following receipt of the notice of revocation.

35 **Sec. 114-144. - Statement of penalties.**

36 The notice of revocation shall include a statement that a penalty equal to the total
37 amount of taxes that would have been due in March in each of the previous years in

1 which the historic preservation exemption covenant was in effect had the property not
2 received the exemption, less the total amount of taxes actually paid in those years,
3 plus interest on the difference calculated as provided in F.S. § 212.12, shall be
4 imposed by the county tax collector for violation of the terms, conditions and
5 standards of the historic preservation exemption covenant.

6 **Sec. 114-145. - Reinstatement.**

7 A property may be reinstated for the historic rehabilitation tax exemption upon
8 satisfactory submission of evidence that the recommendations for changes to the
9 property previously made by the planning manager have been completed. The process
10 for reinstatement shall be the same as the process for review of a final application as
11 set forth in section 114-130. Upon completion of the reinstatement process, the
12 planning manager shall notify the property appraiser pursuant to section 114-140.
13 The historic rehabilitation tax exemption shall only be reinstated for the remaining
14 unexpired term of the initial exemption period.

15 **Sec. 114-146. - Reapplication.**

16 An applicant previously granted a historic rehabilitation tax exemption by the
17 historic preservation commission may undertake an additional substantial
18 improvement project during the exemption period, or following its expiration, and
19 reapply for an additional historic rehabilitation tax exemption for such subsequent
20 work.

21 **Sec. 114-147. - Annual report.**

22 The planning manager shall prepare an annual report.... .

23 **Secs. 114-148 —114-150. - Reserved.**

1 **ARTICLE V. – LOCAL HISTORIC DESIGNATIONS**

2 **Sec. 114-151. – Maps and descriptions of historic designations.**

3 This article provides maps and legal descriptions of historic districts and historic
4 landmarks as designated by the City of Fort Myers.

5 **Sec. 114-152. – Citywide map of historic designations.**

6 Map 114-152 indicates the approximate location of all historic districts and of all
7 historic landmarks that have been designated by the City of Fort Myers. Legal
8 descriptions of historic districts are provided in section 114-157. Legal descriptions of
9 historic landmarks are provided in section 114-158.

10 **Sec. 114-153. – Map of Edison Park Historic District.**

11 Map 114-153 indicates the precise boundary of the Edison Park Historic District
12 and identifies which lots in that district contain contributing structures, only non-
13 contributing structures, or no structures. This district was designated in 1995 by
14 Ordinance 2768. Lots with contributing structures were identified on Map 114-153 in
15 2017.

16 **Sec. 114-154. – Map of Dean Park Historic District.**

17 Map 114-154 indicates the precise boundary of the Dean Park Historic District
18 and identifies which lots in that district contain contributing structures, only non-
19 contributing structures, or no structures. This district was designated in 1997 by
20 Ordinance 2802. In 2003, Ordinance 3147 reduced the size of this district and
21 identified lots with contributing structures. Lots with contributing structures were
22 updated on Map 114-154 in 2017.

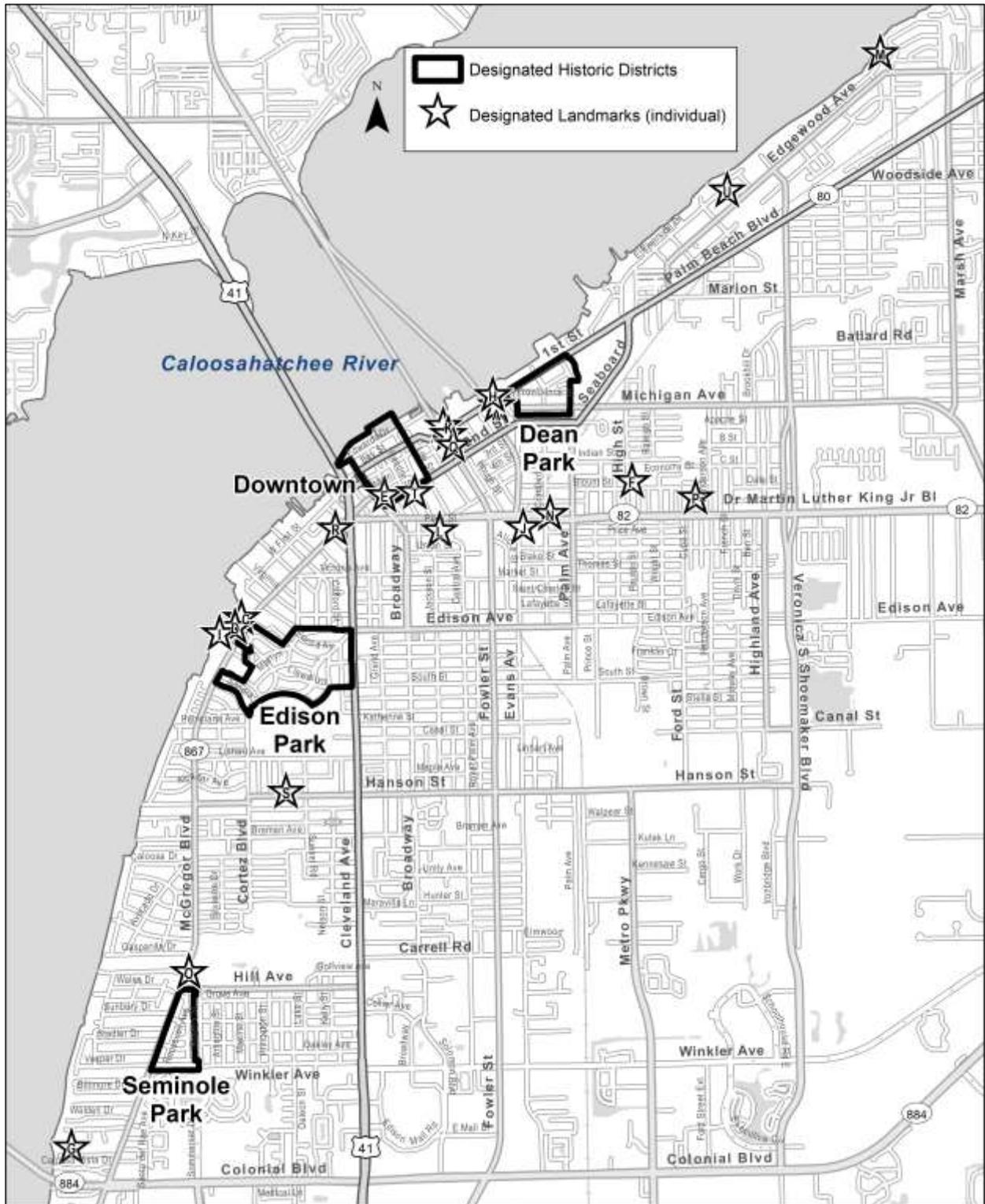
23 **Sec. 114-155. – Map of Downtown Historic District.**

24 Map 114-155 indicates the precise boundary of the Downtown Historic District
25 and identifies which lots in that district contain contributing structures, only non-
26 contributing structures, or no structures. This district was designated in 1998 by
27 Ordinance 2837 which identified contributing structures. Lots with contributing
28 structures were updated on Map 114-155 in 2017.

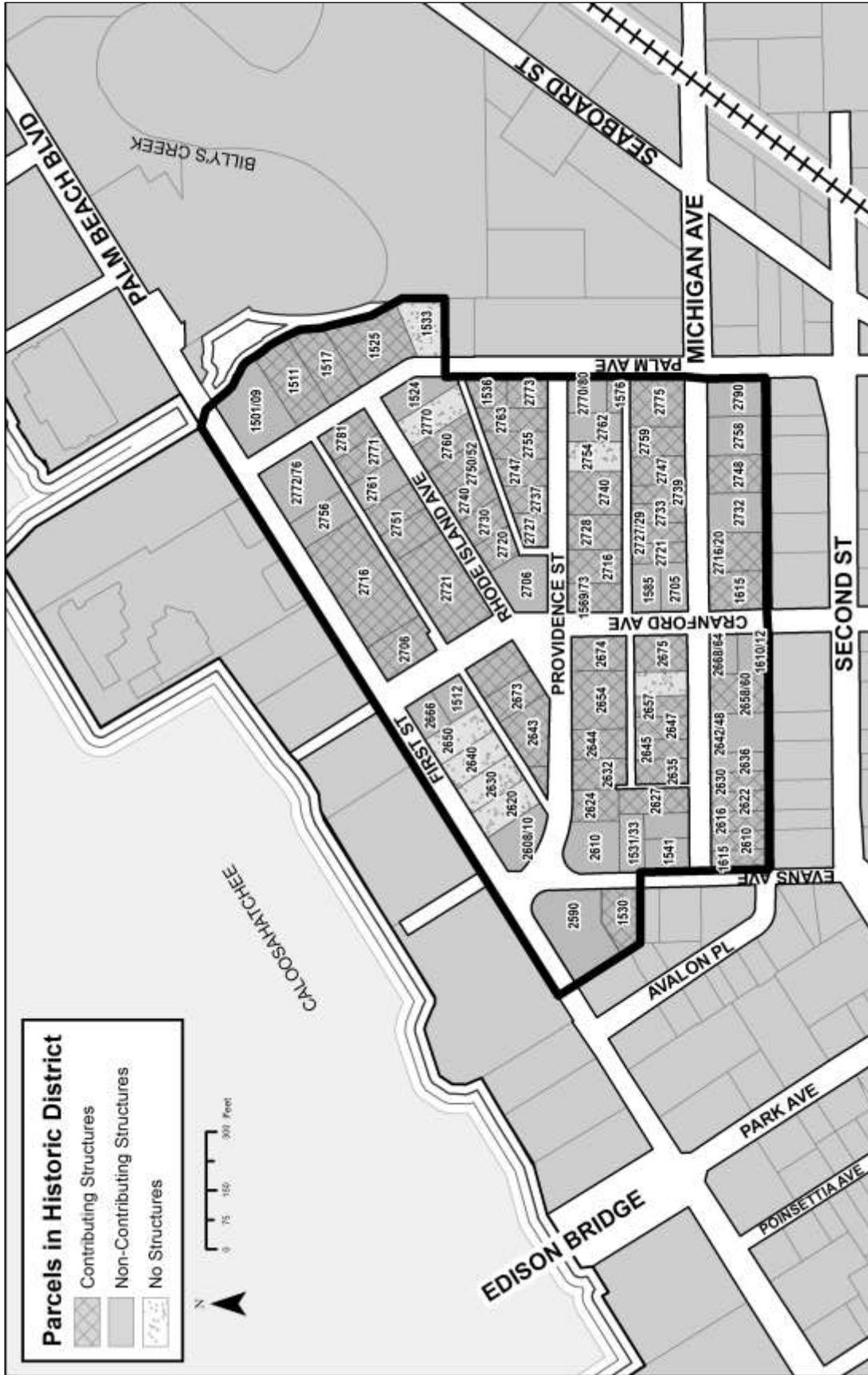
29 **Sec. 114-156. – Map of Seminole Park Historic District.**

30 Map 114-156 indicates the precise boundary of the Seminole Park Historic District
31 and identifies which lots in that district contain contributing structures, only non-
32 contributing structures, or no structures. This district was designated in 1998 by
33 Ordinance 2864. Lots with contributing structures were identified on Map 114-156 in
34 2017.

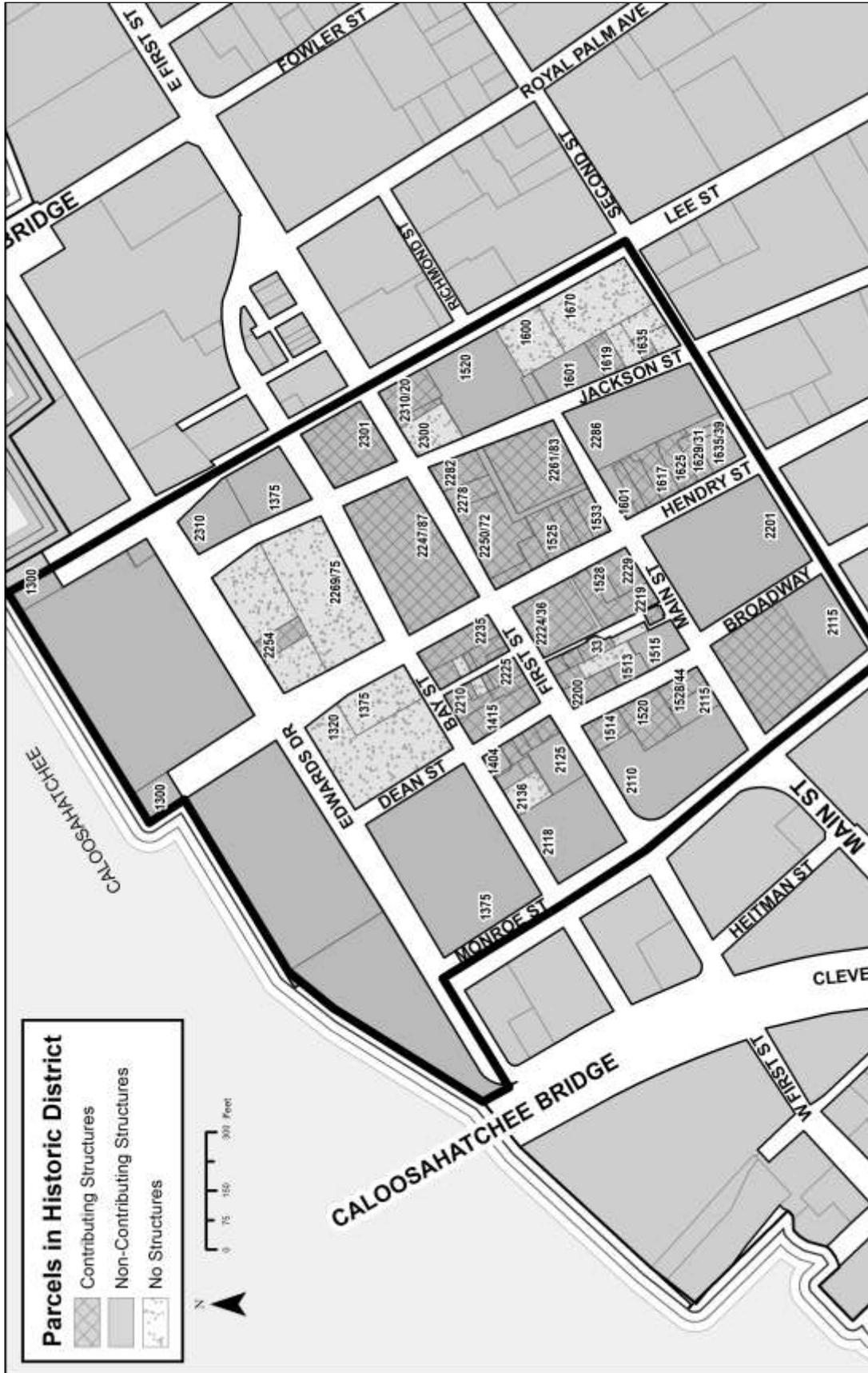
Map 114-152 - Citywide map of historic designations



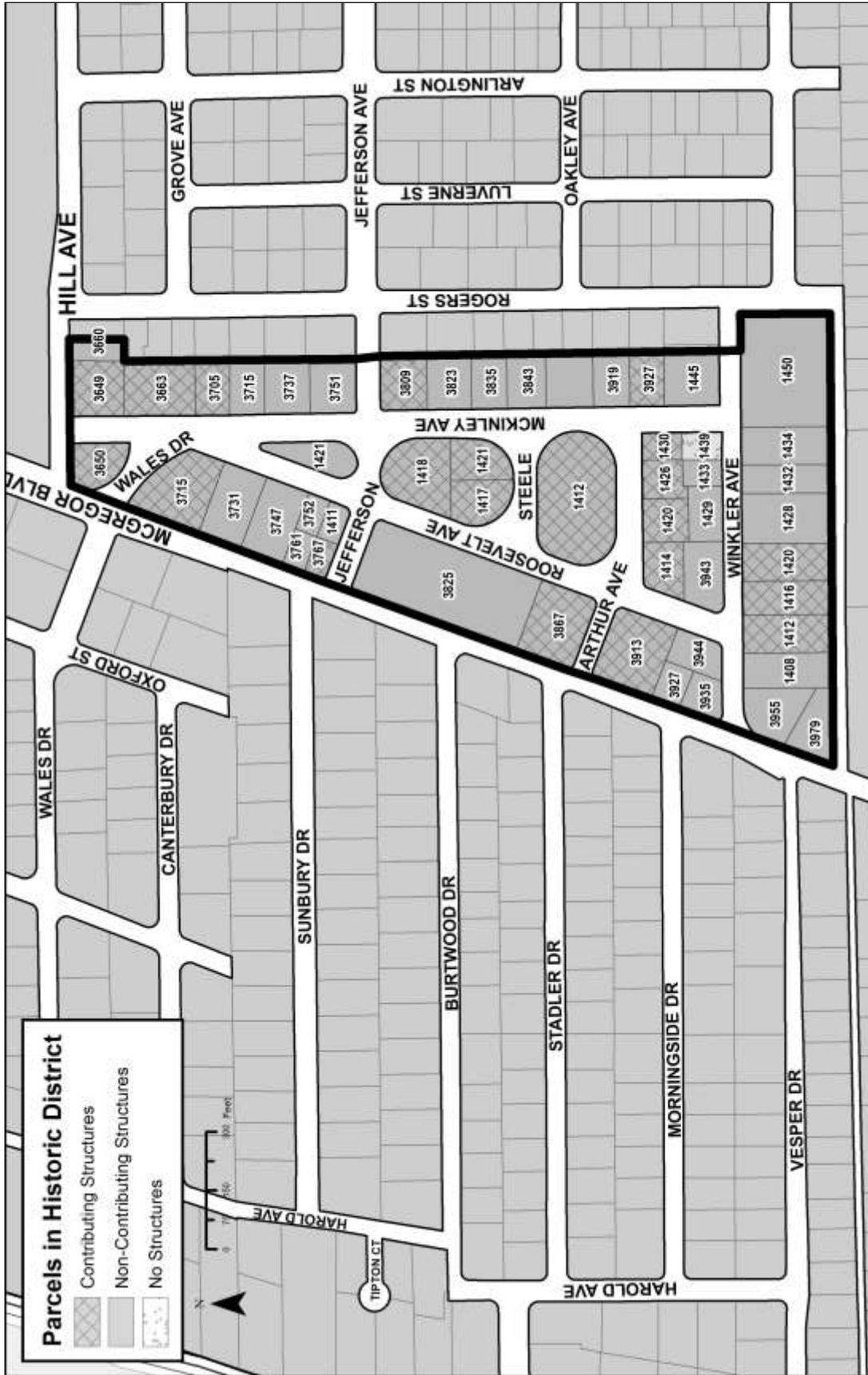
Map 114-154 – Dean Park Historic District



Map 114-155 - Downtown Historic District



Map 114-156 - Seminole Park Historic District



1 **Sec. 114- 157 148. - Historic district legal descriptions.**

2 **(a) Edison Park Historic District**, more particularly described as follows: ... *[no*
3 *changes required]*

4 **(b) Dean Park Historic District**, more particularly described as follows:

5 A tract of land located in Section 13, Township 44 South, Range 24 East, and
6 Section 18, Township 44 South, Range 25 East, City of Fort Myers, County of Lee,
7 State of Florida, more particularly described as follows:

8 Beginning at a point where the west right-of-way line of Palm Avenue intersects
9 the north right-of-way line of a ten-foot alley bisecting Block 1, Evans Addition, as
10 recorded in Plat Book 1 at Page 29, Public Records of Lee County, Florida, run
11 north along said west right-of-way line of Palm Avenue for 830 feet, more or less,
12 thence run east perpendicular to said west right-of-way line of Palm Avenue for 50
13 feet, more or less, to the southwest corner of parcel 13-44-24-P2-0020C.0060, as
14 described in Official Record Book 2445 at Page 1169, said public records; thence
15 run east along the south boundary of said parcel to the west bank of Billy's Creek;
16 thence run along the west bank of Billy's Creek to the northerly right-of-way line
17 of East First Street; thence run southwesterly along the northerly right-of-way line
18 of East First Street to a point 60 feet northwesterly of the northeast corner of
19 Parcel 13-44-24-P2-02700.0100, as described in Official Record Book 1903 at
20 Page 4145, said public records; thence run southeasterly, parallel with Avalon
21 Court, a distance of 249.75 feet to the southwest corner of Parcel 13-44-24-P2-
22 00500.0060, as described in Official Record Book 1823 at Page 3823, said public
23 records; thence run east along the south boundary of said parcel for 145 feet MOL
24 Caloosahatchee River; thence run southwesterly along the south shore of the
25 Caloosahatchee River to a point 405 feet southwesterly of the west right-of-way
26 line of Shelton Court; thence run southeasterly and parallel to the west right-of-
27 way line of said Shelton to a point on the south right-of-way line of East First
28 Street (SR 82); thence run northeasterly along said south right-of-way line of East
29 First Street to a point 100 feet northeast of the east right-of-way line of Avalon
30 Court; thence run southeasterly, parallel with Avalon Court, a distance of 189.75
31 feet to the southwest corner of parcel 13-44-24-P2-00500.0060, as described in
32 Official Record Book 1823 at Page 3823, said public records; thence run east
33 along the south boundary of said parcel for 145 feet, more or less, to the west
34 right-of-way line of Evans Avenue; thence continue east 50 feet to a point on the
35 east right-of-way line of Evans Avenue; thence run south along said east right-of-
36 way line of Evans Avenue a distance of 330 feet, more or less, to the north right-of-
37 way line of a ten-foot alley bisecting Block 2, Evans Addition, as recorded in Plat
38 Book 1 at Page 29, said public records; thence run east along said north right-of-
39 way line a distance of 600 feet, more or less, to the intersection of said north right-
40 of-way line and the west right-of-way line of Cranford Avenue; thence continue
41 east 50 feet along an extension of the north right-of-way line of the ten-foot alley
42 bisecting Block 2 to a point of intersection with the east right-of-way line of
43 Cranford Avenue; thence run east 600 feet, more or less, along the north right-of-
44 way line of a 10 foot alley bisecting Block 1, Evans Addition, as recorded in Plat
45 Book 1 at Page 29 said public records, to the west right-of-way line of Palm
46 Avenue and the Point of Beginning.

- 1 (c) **Fort Myers Downtown Historic District**, more particularly described as follows:
2 ... *[no changes required]*
- 3 (d) **Seminole Park Historic District**, more particularly described as follows: ... *[no*
4 *changes required]*

5 **Sec. 114-158 149. - Historic landmark legal descriptions.**

- 6 (a) **Alderman House**, 2572 First Street, more particularly described as follows: ... *[no*
7 *changes required]*
- 8 (b) **Murphy-Burroughs Home**, 2505 First Street, more particularly described as
9 follows: ... *[no changes required]*
- 10 (c) **Thomas Edison Winter Home**, 2350 McGregor Boulevard, more particularly
11 described as follows: ... *[no changes required]*
- 12 (d) **Henry Ford Estate**, 2376 ~~2400~~ McGregor Boulevard, more particularly described
13 as follows: ... *[no changes required]*
- 14 (e) **Lee County Courthouse**, 2120 Main Street, more particularly described as
15 follows: ... *[no changes required]*
- 16 (f) **Paul Laurence Dunbar Community School**, 1857 High Street, more particularly
17 described as follows: ... *[no changes required]*
- 18 (g) **Residence at 1318 Caloosa Vista Road**, more particularly described as follows:
19 ... *[no changes required]*
- 20 (h) **Gilmer Heitman House**, 2577 First Street, more particularly described as follows:
21 ... *[no changes required]*
- 22 (i) **Casa Rio**, 2424 McGregor Boulevard, more particularly described as follows: ... *[no*
23 *changes required]*
- 24 (j) **1937 Works Progress Administration Brick Water Plan Building**, 2600 Dr.
25 Martin Luther King Jr. Boulevard ~~2000 Cranford Street~~, more particularly
26 described as follows: ... *[no changes required]*
- 27 (k) **Langford-Kingston Home**, currently located at 2500 ~~2466~~ First Street, more
28 particularly described as follows: ... *[no changes required]*
- 29 (l) **Atlantic Coast Line Railroad passenger station**, 2031 Jackson Street,
30 **Southwest Florida Museum of History**, ~~2300 Peek Street~~, more particularly
31 described as follows: ... *[no changes required]*
- 32 (m) **Residence at 336** ~~346~~ **Van Buren Street**, more particularly described as follows:
33 ... *[no changes required]*
- 34 (n) **McCollum Hall**, 2701 ~~2717~~ Dr. Martin Luther King, Jr. Boulevard, more
35 particularly described as follows: ... *[no changes required]*
- 36 (o) **Tootie McGregor Terry Memorial Fountain**, donated to the city on December 6,
37 1912, by General M.O. Terry, currently located at 3591 McGregor Boulevard, more
38 particularly described as follows: ... *[no changes required]*
- 39 (p) **Williams Academy** (building only), currently located at 1936 Henderson Avenue.

1 **(q) Former residence at 1611 Fowler Street**, more particularly described as follows:
2 ... *[no changes required]*

3 **(r) Towles-Engelhardt Home**, (building only), currently located at 2050 McGregor
4 Boulevard.

5 **(s) Residence at 1717 Hanson Street**, more particularly described as follows: ... *[no*
6 *changes required]*

7 **(t) Andrew D. Gwynne Institute**, 2266 Second Street, more particularly described as
8 follows: ... *[no changes required]*

9 **(u) Residence at 3488 East Riverside Drive**, more particularly described as follows:
10 ... *[no changes required]*

11 All of the provisions of this chapter shall apply to the above-designated historic
12 landmarks.

13 **Secs. 114-15 —114-159. - Reserved.**

14 **ARTICLE VI. - LOCAL HISTORIC ROADS AND**
15 **HIGHWAYS**

16 **Sec. 114-160. - McGregor Boulevard (State Road 867).**

17 McGregor Boulevard (State Road 867), right-of-way extending from its intersection
18 with U.S. 41 (State Road 45) south to the city limits, is hereby designated as a local
19 historic scenic highway.....