

ORDINANCE 10-05

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING CHAPTER 118 (“ZONING”) OF THE WINTER GARDEN CODE OF ORDINANCES, SAID CHAPTER BEING PART OF THE CITY OF WINTER GARDEN LAND DEVELOPMENT CODE, BY AMENDMENT TO CHAPTER 98, ARTICLE VII TO BE ENTITLED “CITY OF WINTER GARDEN HISTORIC DOWNTOWN DISTRICT OVERLAY”; PROVIDING FOR UNIFORM STANDARDS AND REGULATIONS FOR NEW DEVELOPMENT AND PROPERTIES WHICH UNDERGO MODIFICATION WITHIN A SPECIFICALLY DESCRIBED AREA OF DOWNTOWN WINTER GARDEN WITHIN THE JURISDICTION OF THE CITY OF WINTER GARDEN, FLORIDA; PROVIDING FOR AMENDMENT OF THE OFFICIAL ZONING MAP; PROVIDING FOR THE ADOPTION OF DESIGN STANDARDS MANUAL; PROVIDING FOR CODIFICATION, ENFORCEMENT, SEVERABILITY, AND AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ENACTED BY THE CITY OF WINTER GARDEN, FLORIDA, AS FOLLOWS:

SECTION 3: Authority. The City of Winter Garden has the authority to adopt this Ordinance pursuant to Article VIII of the Constitution of the State of Florida, and Chapters 162 and 166, Florida Statutes.

SECTION 2: Adoption. Article XI of Chapter 118 of the City of Winter Garden Code is hereby amended and recodified and included as part of new Article VII, of Chapter 98, of the Winter Garden, which Article shall be as adopted as set forth in **Exhibit “1”** attached hereto and incorporated herein.

SECTION 3: Codification: Section 2 of this Ordinance shall be codified and made part of the City of Winter Garden Code of Ordinances.

SECTION 4: Control: In the event of a conflict or conflicts between this ordinance and other ordinances, this ordinance controls.

SECTION 5: Severability: It is the intent of the City Commission of the City of Winter Garden, and is hereby provided, that if any section, subsection, sentence, clause, phrase or provision of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall be not be construed as to render invalid or unconstitutional the remaining provisions of this Ordinance.

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EXHIBIT “1”

ARTICLE VII.

CITY OF WINTER GARDEN HISTORIC DOWNTOWN DISTRICT OVERLAY

Sec. 98-186. Intent and Purpose.

1. The purpose of this Ordinance is to promote, protect, and preserve, when practical, the historic structures, buildings, and places that are of basic and vital importance to the maintenance and integrity of the City of Winter Garden's Historic Downtown District. Furthermore, it is the purpose of this Ordinance to encourage new commercial buildings and developments in the business district that are harmonious with the existing local historic flavor of eclectic late nineteenth century and early twentieth century Florida vernacular architecture. New residential structures and those that need renovations or expansion will be required to utilize a style of residential architecture compatible with the Historic Downtown District. Historic preservation enhances community pride, strengthens connections between citizens of different generations, promotes the community's orderly growth, and achieves a high aesthetic appearance. By promoting the Historic Downtown District as an interesting, unique, and walkable environment, it is the purpose of this Ordinance to promote the community's health, safety, general welfare, local economy, and in particular:
 - a. Create and enhance walkable, pedestrian-oriented streets with human scale architecture, public spaces, street furnishings, and indigenous landscaping;
 - b. Improve the visual appearance and physical access to side streets from Plant Street between and including Park Avenue and Dillard Street. These side streets include Woodland, Main, Boyd, Lakeview and Highland.
 - c. Design for safe, walkable streets, while maintaining functionality for vehicles, bicycles, mass transit, and other forms of transportation. Promote pedestrian activity and interconnectivity between the Business District and Residential District with short blocks, wide sidewalks, pathways, and a mix of uses within walking distance.
 - d. Coordinate private improvements with public streetscape.
 - e. Improve the aesthetic qualities of gateways into the Historic Downtown District, including Dillard Street, and the area of the Plant Street and Park Avenue intersection.

2. Relationship to zoning districts.

These regulations are intended to provide the framework to measure and protect historic or architecturally worthy buildings, structures, sites, parks, residential areas, and Commercial District. These regulations are intended to act as an overlay to existing zoning designations. Zoning amendments may be applied to designated historic structures, districts and sites in accordance with local codes and procedures.

Sec. 98-187. Definitions.

Adaptive re-use: The process of converting a building to a use other than that for which it was originally designed.

Addition: New construction added to an existing building or structure.

Alteration: Any material or visual change, other than normal maintenance and repair, to the exterior of any structure or architectural feature, including construction, reconstruction, or removal of any structure or building element.

Arcade: A series of arches supported by columns or pillars; a covered passageway; a recessed gallery with columns or piers open to the street.

Architectural Review and Historic Preservation Board (“ARHPB” or “Board”): A board of citizens created by local ordinance and charged with enforcing provisions of local laws governing historic districts and buildings.

Articulate: To express the parts or segments of a building clearly; to divide into segments.

Balcony: A railed projecting platform found above ground level on a building.

Baluster: One of a series of short pillars or other uprights that support a handrail. One of the upright, usually rounded or vase-shaped, supports of a balustrade.

Base: The lowest part of a column or architectural structure. A base story is the lowest story of a building.

Bay: A main division of a structure, usually containing a window or door. A building with three windows across the front is referred to as three bays wide. Also, an enclosed space protruding from the exterior of a building such as a bay window.

Bay window: A projecting window that forms an extension to the floor space of the internal room; usually extending to the ground level.

Board: When used in this Article, it shall mean the Architectural Review and Historic Preservation Board (“ARHPB”).

Bond: A term used to describe the various pattern in which brick or stone is laid, such as “common bond” or “flemish bond.”

Bracket: A projecting support member found under eaves or other overhangs.

Building: A structure created to shelter any form of human activity. This may refer to a house, barn, garage, church, hotel, retail store, or similar structure.

Bulkhead: The structural panels just below display windows on storefronts. Bulkheads can be both supportive and decorative in design. Nineteenth century bulkheads are often of wood construction with rectangular raised panels. Twentieth century bulkheads may be of wood, brick, tile, or marble construction. Bulkheads are also referred to as kick-plates.

Cantilevered: A projecting structure, such as a beam, that is supported at one end and carries a load at the other end or along its length. A member, such as a beam, that projects beyond a fulcrum and is supported by a balancing member or a downward force behind the fulcrum. A bracket or block supporting a balcony or cornice.

Certificate of Approval: A document awarded by the Architectural Review and Historic Preservation Board allowing an applicant to proceed with a proposed alteration, demolition or new construction in a designated historic area, district or site, following a determination of the proposed improvements suitability to applicable design and compatibility criteria.

Character: The qualities and attributes of any structure, site, street or district.

Clapboards: Horizontal wooden boards, thinner at the top edge, which are overlapped to provide a weatherproof exterior wall surface.

Column: A supporting pillar. The parts of a column in classical architecture are the base, shaft, and capital.

Commercial Retail Use: For the purposes of this ordinance, a business that is open to the public and displays and sells goods and services directly to the public.

Common bond: A brickwork pattern where most courses are laid flat, with the long “stretcher” edge exposed, but every fifth to eighth course is laid perpendicularly with the small “header” and exposed, to structurally tie the wall together.

Contributing Structure or Property: Buildings, structures, or sites that add to the historical association, architectural quality, or archaeological value of a property or district because:

- (1) They were present during the period of significance and possess historical integrity reflecting their character at the time or potential for yielding historical information;
- (2) Their potential to qualify independently for the National Register of Historic Places;
and
- (3) They are at least 50 years old.

Cornice: The uppermost, projecting part of an entablature, or feature resembling it. Any projection ornament molding along the top of a wall, building, etc.

Crawl space: The area between the ground and the first finished floor, usually 18 to 24 inches.

Cross-gable: A secondary gable roof which meets the primary roof at right angles.

Demolition: The process of razing or removing all or a substantial portion, of a building, structure or appurtenance without the intent to restore or rehabilitate the original structure in accordance with this Article.

Demolition by neglect: The destruction of a Contributing Structure, or structure currently being considered for Contributing status, through abandonment or lack of maintenance of such structure as further explained in § 98-194(5) of this Code.

Design Standards and Guidelines Manual (the “Manual”): Criteria developed by the Architectural Review and Historical Preservation Board and city staff to identify design concerns, standards, and guidelines in the Historic Downtown District, and to help property owners ensure that rehabilitation and new construction respect the character of designated buildings and the Historic Districts.

Design review: The process of ascertaining whether modifications to historic structures, sites, or districts meet standards of appropriateness established by a governing or advisory review board.

Designated site, landmark, or district: Any site, landmark, or district designated by the federal, state, or local government as having historical, or architectural significance.

Dormer window: A window that projects from a roof.

Double-hung window: A window with two sashes, one sliding vertically over the other.

Eaves: The edge of a roof that projects beyond the face of a wall.

Edgeyard Building: A building that occupies the center of its lot with Setbacks on all sides. Edgeyard Buildings are prohibited as commercial structures in the Historic District.

Elevation: The vertical plane of a building façade. An elevation drawing is a view of such vertical plane.

Expression Line: A line prescribed at a certain level of a building for the major part of the width of the Façade, expressed by a variation in material or texture or by a limited projection such as a molding or balcony.

Exterior features: For the purpose of this ordinance, exterior features shall include the architectural style, general design and arrangement of the exterior of a building or other structure, including the color, the kind and texture of the material constituting or applied to the exterior walls, and the type and style of all windows, doors, light fixtures, signs, other appurtenant fixtures and other natural features such as trees and shrubbery.

Façade: The face or front elevation of a building.

Fascia: A flat horizontal member of a building. A fascia sign is one attached flat against a building.

Flashing: Thin metal sheets used to prevent moisture infiltration at joints of roof planes and between the roof and vertical surfaces.

Flemish bond: A brickwork pattern where the long “Stretcher” edge of the brick is alternated with the small “header” end for decorative as well as structural effectiveness.

Fluting: Shallow, concave grooves running vertically on the shaft of a column, pilaster, or other surface.

Forecourt: A private Frontage wherein a portion of the Façade is close to the Frontage Line and the central portion of the Façade is set back. Forecourts may be used for vehicle passenger loading and unloading.

Foundation: The lowest exposed portion of the building wall, which supports the structure above.

Frontage: The area between a building Façade and the street lanes for vehicles.

Frontage Line: A lot line bordering a public Frontage. Facades facing Frontage Lines define the public realm and are, therefore, more regulated than the Elevations facing other lot lines.

Front façade: The principal face or front elevation of a building.

Function: The use or uses accommodated by a building and its lot.

Gable: The triangular section of a wall to carry a pitched roof.

Gable roof: A pitched roof with one downward slope on either side of a central, horizontal ridge.

Gallery: A private Frontage conventional for Retail use wherein the Façade is aligned close to the Frontage Line with an attached cantilevered shed or lightweight colonnade overlapping the Sidewalk. Galleries provide pedestrians with protection from the elements.

Gambrel roof: A ridge roof with two slopes on either side.

Glazing: Fitting glass into windows and doors.

Hipped roof: A roof with uniform slopes on all sides.

Historic building: A building that is classified as a historic landmark, and a building classified as “Contributing” in the Historic Downtown District.

Historic District: An historic district is an area that includes or encompasses historic sites, landmarks, buildings, signs, appurtenances, structures or objects as ARHPB may determine to be appropriate for historical preservation. Designated district(s) need not be a single enclosed area; nor do the areas or sites have to be contiguous to constitute a district. When used in this Ordinance, “Historic District” shall refer to the City of Winter Garden Historic Downtown District Overlay. The term “Commercial Historic District” shall refer to those properties in the Historic District with commercial zoning. The term is not intended to preclude multi-family residential dwellings on the upper floors of buildings with commercial uses. The term “Residential Historic District” shall refer to those properties in the Historic District with residential zoning. The term “Multifamily Historic District” shall refer to those properties zoned for multi-family building functions.

Historic landmark: Historic landmarks include any site (including significant trees or other plant life located thereon), building, or structure of particular historic or aesthetic significance to the city, the state, or the nation. Landmarks include, sites, buildings, or structures where cultural, political, spiritual, economic, social or artistic history of the community, state or nation is reflected or exemplified, or which are identified with historic personages or with important events in local, state or national history, or which embody the distinguishing characteristics of an architectural specimen, inherently valuable for a representation of a period, style or method of construction, or a notable work of construction, or a notable work of a master designer or architect whose individual genius influenced his age.

Historic site: A single lot or portion of a lot containing an improvement, landscape feature, or archaeological site, or a historically related complex of improvements, landscape features or archaeological sites that may yield information on history or prehistory.

Historic survey: A comprehensive survey involving the identification, research and documentation of buildings, sites and structures of any historical, cultural, archaeological or architectural importance.

Inventory: A systematic identification of properties having cultural, historical, architectural or archaeological significance.

Knee brace: An oversized bracket supporting a cantilevered or projecting element.

Landmark: A designated building, site, or structure having historical, architectural, or archaeological significance.

Lattice: An open work grill of interlacing wood strips used as screening.

Layer: A range of depth of a lot within which certain elements are permitted. The 1st Layer is the first 5 feet from the Frontage Line. The 2nd Layer is the next 20 feet from the frontage Line. The 3rd Layer is the remaining portion of the lot. For example, off street surface parking is allowed only in the 2nd and 3rd layers of a commercial lot.

Lintel: A horizontal structural member that supports a load over an opening.

Mansard roof: A roof with a double slope on all four sides, with the lower slope being almost vertical and the upper almost horizontal.

Masonry: Exterior wall construction of brick, stone or adobe laid up in small units.

Massing: Composition of a building's volumes and surfaces that contribute to its appearance.

Mitigation: A process designed to prevent adverse impact on cultural, historic, or architectural resources, by the systematic removal of the prehistoric, historic, or architectural data and materials, by requiring the acquisition of the fundamental information necessary for understanding the property within its proper historic context. For structures, at a minimum, this may require primary archival studies, informant interviews, measured drawings, and large-scale photography. For archaeological sites, at a minimum, this may require literature studies, informant interviews, field survey, excavation, and artifact analysis. All mitigation projects require the preparation of reports.

Mortar: A mixture of plaster, cement, or lime with a fine aggregate and water; used for pointing and bonding bricks or stones. Mortars for repointing should be softer (measured in compressive strength) than the masonry units and no harder than the historic mortar.

Mullion: The vertical bar between coupled windows or multiple windows.

National Historic Landmark Program: Authorized in 1935 and implemented in 1960, a federal program that identifies sites and buildings of clearly national significance.

National Register of Historic Places: Established by Congress in 1935, the National Register of Historic Places is a listing of culturally significant buildings, structures, objects, sites, and districts in the United States. The listing is maintained by the United States Department of the Interior.

Partial demolition: Destruction of a portion of or appurtenance to a structure for the purposes of maintaining a structure without necessarily intending to repair or replace such portion or appurtenance. Partial demolition may be necessary to relocate an entryway, window bay, or porch to another side of a structure, remove a dangerous condition posed by a deteriorating appurtenance, construct an addition to an original structure, or otherwise improve the appearance, historical conformity, or functionality of a structure by removing a vestigial, dangerous, or otherwise inconsistent extant feature from a structure.

Rehabilitation: The means, the act or the process of returning a building, object, site, or structure to a state of utility through repair, remodeling or alteration that enables an efficient contemporary use while preserving those portions or features of the building, object, site or structure that are significant to its historical, architectural and cultural values.

Restoration: The creation of an authentic reproduction beginning with existing parts of an original object or building. Restoration includes the act or process of accurately recovering the form and details of a building, object, site or structure and its setting as it appeared at a particular period of time by means of removing later work or replacing missing earlier work.

Revitalization: The imparting of a new economic and community life in an existing neighborhood, area, or business district, while at the same time preserving the original building stock and historic character.

Ridge: The top horizontal member of a roof where the sloping surfaces meet.

Right-of-way: The strip of land owned or controlled by the city or another governmental agency over which the public has a right of passage, including the streets, parkways, medians, sidewalks and driveways constructed thereon.

Sash: The framework into which window panes are set.

Setback: The distance between the street right-of-way line and the line of a building or any projection thereof.

Shall: Is used to indicate a mandatory action.

Sheathing: The structural covering of boards or material used over studs or rafters on the outside wall or roof before installing the finished siding or roof covering of a structure.

Shed roof: A gently pitched, almost flat roof with only one slope.

Should: Is used to indicate an action which is strongly advised.

Siding: The exterior wall covering of a structure.

Sill: The bottom crosspiece of a window frame.

Site: The location of a significant event, activity, building, structure, or archaeological resource.

Spindles: Slender, elaborately turned wood dowels or rods often used in screens and porch trim.

Stoop: A small porch, platform, or staircase leading to the entrance of a house or building. Stoops are commonly used to provide access to a first floor elevated for privacy from the sidewalk.

Streetscape: The distinguishing and pictorial character of a particular street as created by its width, degree of curvature, paving materials, design of the street furniture, landscaping, and forms of surrounding buildings.

Structure: A work made up of interdependent and interrelated parts in a definite pattern of organization. Constructed by man, it may be an engineering project large in scale, such as a bridge, wall, gate, or building, or small scale, such as a monument or fountain.

Stucco: A type of exterior plaster applied as a two-or-three-part coating directly onto masonry. Historic stucco consisted primarily of hydrated or slaked lime, water and sand with straw or animal hair as a binder. After 1900, most stucco was composed of Portland cement, mixed with some lime. Many of the contemporary stucco products on the market today are not compatible with historic stucco buildings.

Style: A type of architecture distinguished by special characteristics of structure and ornament and often related in time; also, a general quality of distinctive character.

Transom: A horizontal opening (or bar) over a door or window.

Trim: The decorative framing of an opening and other features on a façade.

Turret: A small slender tower.

Veranda: A covered porch or balcony on a building's exterior.

Vernacular buildings: Buildings designed and built without the aid of an architect or trained designer; buildings whose design is based on ethnic, social, geographic, or cultural traditions rather than on an architectural philosophy.

Wall dormer: Dormer created by the upward extension of a wall and a breaking of the roofline.

Weatherboard: Wood siding, consisting of overlapping boards usually thicker at one edge than the other.

Window: A glazed opening in a wall that provides an interior space with natural light and ventilation. For description of the parts of a window see: muntin pane, and sash.

Yard: The land area surrounding the principal building on any parcel which is neither occupied or obstructed by a portion of the principal building from the finished grade to the sky or below the finished grade except where such occupancy, obstruction or encroachment is specifically permitted by this code.

- a) Front yard: That portion of the yard extending the full width of the parcel and measured between the Frontage Line and a parallel line tangent to the nearest part of the principal building.
- b) Rear yard: That portion of the yard extending the full width of the parcel and measured between the rear parcel line and a parallel line tangent to the nearest part of the principal building.
- c) Side yard: Those portions of the yard extending from the required front yard to the required rear yard and measured between the side parcel lines and parallel lines tangent to the nearest part of the principal building.

Sec. 98-188. Historic Downtown District area.

- (1) The City of Winter Garden Historic Downtown District area includes +/-116 acres of land at the time of adoption of this Article, and is generally bordered by 2nd Street and 3rd Street on the east boundary, Smith Street on the southern boundary, Park Avenue and North Central Avenue on the western boundary, and a portion of West Tilden Street and East Newell Street on the northern boundary. The Historic District is graphically depicted on Exhibit "A" – Historic Downtown District – Area Map.

(2) Legal Description.

The legal description of the Historic Downtown District area is attached and incorporated herein as “Exhibit B”.

- (3) The City of Winter Garden shall create a photographic index and database Inventory of all residential, commercial, and industrial structures in the Historic Downtown District. Parcels shall be listed by the existing use at the time of the inventory and date of construction. The City shall use this data to document the existing conditions as of the date of the Ordinance and to evaluate permit applications that are made after the Ordinance is adopted. The Historic Downtown District includes the designated historic residential and commercial historic area established in 1994. Currently 71 historic residential structures, out of a total of 125 residential parcels, and 27 historic commercial structures, out of a total of 150 commercial parcels, are identified in the district boundary area. Such historic structures are also classified as “Contributing Structures,” which means that the structures are at least 50 years of age and exhibit unique or distinctive architectural style or character. A listing of the Contributing Structures by both commercial and residential use and address is provided in “Exhibit C” to this Ordinance.

(4) Supremacy.

- a. The numerical values and distances set forth in the text of this Article prevail in the event of any discrepancy with numerical values and distances set forth in the *Design Standards and Guidelines Manual*, or other Sections of the Winter Garden Code.
- b. The photographs and illustrations in the Historic Downtown District Overlay *Design Standards and Guidelines Manual* are for illustrative purposes only. Each photograph and illustration is intended to illustrate the design principle(s) or architectural style or element identified in the corresponding caption. The text of this Article shall prevail in the event of any discrepancy with a visual depiction in the *Manual*.
- c. If other Land Development Regulations or zoning provisions conflict with any of the standards set forth in this Article, the standards and provisions contained in this Article shall prevail.

Sec. 98-189. Architectural Review and Historic Preservation Board (Board).

Reference previously established by Ordinance 08-29 (6-12-2008):

(1) Purpose.

Sec. 118-1600 Purpose

The Architectural Review and Historical Preservation Board (“Board” or “ARHPB”) is hereby established for the purpose of protecting historical and cultural resources located within the city limits.

(2) Board membership, officers, etc.

Sec. 118-1601 Board Membership, officers, etc.

(a) *Membership.*

(1) The Board shall have seven members appointed by the City Commission. One member of the Board shall be a registered architect. One member shall be a licensed general contractor, preferably with experience with historical renovations. One member shall be a member of the Winter Garden Heritage Foundation Board. One member shall own property in Winter Garden's downtown C-1 zoning district. The remaining three member appointments shall be City of Winter Garden residents and be made on the basis of civic pride, integrity, experience, and interest in the field of historic preservation.

(2) Each member shall be appointed to serve a three-year term except that, initially in order to establish staggered terms, two members shall be appointed to serve a term of one year, three members shall be appointed to serve a term of two years, and two members shall be appointed to serve a term of three years. No person may serve more than two consecutive three-year terms. Persons disqualified by this provision may be reappointed after one year elapses after the expiration of the second term of service.

(3) When a position becomes vacant before the end of the term, the City Commission shall appoint a substitute member within 60 days to fill the vacancy for the duration of the vacated term. A member whose term expires may continue to serve on the Board until a successor is appointed and qualified.

(4) An individual who misses three regularly scheduled meetings during any calendar year without good cause shall be deemed to have resigned that individual's membership on the Board and is not eligible for reappointment to the Board or any other city board for at least one year. In that event, the city clerk shall notify the individual that the individual's position on the Board will be declared vacant by the City Commission at the next regularly scheduled City Commission meeting unless the individual demonstrates good cause for having been absent. The City Commission may at any time terminate the appointment of and remove any Board member for cause including, but not limited to, a member's excessive absences, violation of City Charter or City Code, violation of the Government in the Sunshine Law, malfeasance, misfeasance, neglect of duty, habitual drunkenness or impairment, incompetence, permanent inability to perform duty and conflicts of interest, upon giving notice and an opportunity to be heard. The City Commission shall take any and all action it deems appropriate in its sole discretion.

~~(5)~~(b) *Officers.* The members of the Board shall annually elect a chair and vice chair from among the members and may create and appoint other officers of the Board, as the Board deems necessary.

~~(6)~~(c) *Staffing.* The City shall provide professional and administrative staff as needed and fiscal support subject to budgetary approval by the City Commission.

~~(7)~~(d) *Compensation.* Members shall not be compensated but shall be reimbursed by the city for necessary expenses incurred in connection with their duties

~~(8)~~(e) *Funding.* The City Commission shall appropriate funds to the Board to perform its prescribed functions.

~~(9)~~(f) *Required meetings.* The Board shall meet twelve times each year, all meetings will be appropriately noticed and minutes of each meeting shall be kept. Meetings will be conducted according to rules of procedure adopted by the Board. All meetings of the Board shall be open to the public and shall operate under the provisions of F.S. ch. 286 (The Government in the Sunshine Law).

Sec. 116-1602(3) General functions, powers and duties.

(a) *Generally.* It shall be the general responsibility of the City to take appropriate action to ensure that the provisions of this article are implemented.

(b) *Specifically.* It shall be the specific responsibility of the Architectural Review and Historical Preservation Board to:

(1) Create and update the official inventory of cultural resources of the city and submit to the City Commission recommendations and documentation concerning the updating.

(2) Develop programs to stimulate public interest in urban neighborhood conservation, to participate in the adaptation of existing codes, ordinances, procedures, and programs to reflect urban neighborhood conservation policies and goals.

(3) Explore funding and grant sources and advise property owners concerning which sources might be available for identification, protection, enhancement, perpetuation, and use of historic, architectural, archeological and cultural resources.

(4) Cooperate with agencies of city, county, regional, state and federal governments in planning proposed and future projects to reflect historic preservation concerns and policies, and assist in the development of proposed and future land use plans.

(5) Advise property owners and local governmental agencies concerning the proper protection, maintenance, enhancement, and preservation of cultural resources.

(6) Advise the City Commission concerning the effects of local governmental actions on cultural resources.

(7) Recommend the designation of sites, buildings, structures, objects, and districts, both public and private, as historically or architecturally significant.

(8) Develop architectural standards for designated Contributing Structures, historic sites, ~~buildings, structures, and~~ objects within the Historic and dDistricts and present standards to the City Commission for approval. All standards will require an enabling ordinance adopted by the City Commission. The ARHPB

may recommend to the City Commission additional code standards to preserve and protect special features unique to the City, or may recommend amending the *Design Standards and Guidelines Manual*.

(9) Develop criteria for designating local historic landmarks and present criteria to the City Commission for approval. All criteria will require an enabling ordinance adopted by the City Commission.

(10) Develop policies and procedures for administering all approved ordinances regarding architectural and historical districts, historical sites and present such polices and procedures to the City Commission for approval. All policies and procedures will require an enabling ordinance adopted by the City Commission.

(11) Notify the City Manager who shall take appropriate action when it appears that there has not been compliance with the historic preservation regulations of the city.

(12) Assist in developing a historic preservation element to be incorporated into the City of Winter Garden's Comprehensive Plan and, if necessary, make recommendations for amendments to historic preservation goals, objectives and policies in the plan.

(c) Nothing in this Section shall be construed to affect the authority of the Planning and Zoning Board to grant variances from height and setback requirements, make recommendations of zoning boundaries, and otherwise exercise the authority set forth in Section 98-28.

(Ord. No. 08-29, § 2, 6-12-08)

Sec. 98-190. Certificate of Approval.

(1) *Certificate of Approval Required.* Unless otherwise exempted herein, any person or entity, prior to commencing alteration, demolition, partial demolition, or new construction in a designated historic area, district or site located within the Historic Downtown District, must apply for and receive a Certificate of Approval prior to commencing any such activity.

(2) *Pre Application Conference.* Before entering into or assuming binding commitments or incurring substantial expense in the preparation of plans, surveys and other data in connection with the alteration, demolition, or new construction in the Historic Downtown District, and before submitting an application for a Certificate of Approval, an applicant should confer with the City to obtain information and guidance concerning the permissibility and feasibility of any such alteration, demolition, or new construction. The purpose of such conference is to discuss and clarify historic conservation objectives and design guidelines with the applicant. In no instance shall any statement or representation made prior to the official application review be binding on ARHPB, the City Commission, City Staff or any City Departments.

- (3) Staff Review. The City’s Architectural Review Staff shall review all applications for Certificates of Approval. Such review will occur within fifteen (15) business days after a complete application is filed. The staff shall prepare a staff report, which report shall outline staff recommendations as to the application for Certificate of Approval and is to be provided to the applicant and/or the project architect in advance of the ARHPB meeting.
- (a) Projects not requiring Development Review Committee (“DRC”) Review. If the application proposes alteration of an existing building within the Historic Downtown District that will not add square feet to the building or structure, the project application shall be reviewed by staff and forwarded directly to ARHPB with recommendations for review.
- (b) Projects requiring Review of the Development Review Committee Review (“DRC”). If the project requires site work, is a new building, or proposes an addition to an existing building, the applicant must, in addition to an application for the Certificate of Approval, also submit a site plan application, which site plan application shall be reviewed by the City’s Development Review Committee (DRC). Review may be conducted simultaneously by both DRC and ARHPB; however, if, at any time in the review process, it is determined or believed that an application submitted for review without a site plan requires a site plan, such application shall be forwarded to DRC for further action and/or a determination as to whether a site plan is required. Should a site plan be required but has not yet been provided, review of the application for Certificate of Approval shall be abated until a complete site plan application is submitted to DRC for review. In no event shall DRC issue a determination of approval concerning a site plan application for a project requiring a Certificate of Approval until ARHPB has provided DRC with verification that ARHPB has issued such Certificate and/or their review and recommendation, or the City’s Architectural Staff has otherwise notified DRC that a Certificate of Approval is not required. When DRC review is required, DRC shall be responsible for forwarding all relevant materials, including the Certificate of Approval, to the Planning & Zoning Board or the City Commission as may be required by this Code.
- (4) Review Requirement. Upon completion of staff review of an application in accordance with subsection (3), ARHPB shall review and render a decision concerning such application during a duly noticed public meeting. ARHPB may approve, approve with conditions, or deny an application.
- (5) Guidelines for Review, Variances and Waivers.
- (a) The Design Standards and Guidelines Manual shall reflect and be used to implement the intent and purposes of this Historic Downtown District Overlay Ordinance. The ARHPB shall use and weigh the “Encouraged” and “Strongly Discouraged” criteria set forth in the Manual against the elements set forth in the application to determine whether an application meets the intent of this Ordinance.

- (b) In adopting guidelines for review, it shall be the intent of ARHPB to preserve the exterior historic characteristics of the landmark, resource or District, and to promote maintenance, restoration, adaptive reuses appropriate to the property, and compatible designs which are harmonious with the exterior architectural and landscape features of neighboring buildings, sites, and streetscapes. The guidelines shall also serve as criteria for staff to make decisions, as permitted by ARHPB and this Article, regarding applications for standard certificates of approval.
- (c) Variances may be granted from the land development code requirements as may be appropriate to achieve the design review standards for historic preservation. The ARHPB shall be authorized to issue variances concerning the architectural and aesthetic requirements established pursuant to this Chapter; however, other variances requiring a site plan, including variances from building height, side, rear and front setbacks, building coverage, floor area ratio, impervious coverage, and walls and fences, may be granted only by the City's Planning and Zoning Board in accordance with those procedures outlined in Article II, Division 4 of Chapter 118 of this Code. Building code exemptions may be granted subject to the guidelines of the Florida Building Code for qualified historic buildings or structures:
- i. When one or more variances are considered, the applicant shall post proper Notice on the property in accordance with § 98-191(2)(c) of this Code, or, if one or more variances requires review by the Planning and Zoning Board, § 118-133 of this Code. Variances requiring approval of the Planning & Zoning Board shall be reviewed by the staff, and the Planning & Zoning Board shall render a final decision as to such variances only. Projects that require a variance from the architectural design standards established pursuant to this Chapter shall be heard by ARHPB in conjunction with the architectural plan application.
 - ii. All requests for variances through the AHRPB design review process shall be limited to property building features and elevations requirements as defined in this ordinance.
 - iii. Any person aggrieved by the decision of the ARHPB for a variance may appeal such decision to the City Commission within 15 days of the date of the decision by ARHPB. Notice of such pending appeal must be provided in accordance with the signage requirements of § 98-191(2)(c) of this Code, being posted for at least ten (10) consecutive days prior to the hearing on such appeal and noting the time, date, location, and nature of such appeal. Appeals from decisions of the Planning and Zoning Board shall be made in accordance with the Planning and Zoning Board's standard appellate procedures as set forth in Section 98-31 of this Code. In the event that an applicant has filed timely appeals of both an ARHPB decision and a Planning and Zoning Board decision both pertaining to the same project or application, such appeals, if both pending, may be consolidated and scheduled for joint presentation to the City Commission. Notice of such consolidated appeals shall be provided as set forth in § 98-31(b) of this Code.

- (d) Each designated historic district may adopt specific district guidelines for design review based upon the U.S. Secretary of the Interior's Standards for Rehabilitation as revised in 1995 subject to final approval by ARHPB.
- (e) Local guidelines for design review may be adopted based upon the U.S. Secretary of the Interior's Standards for Rehabilitation as revised in 1995.

(6) Certificate of Approval Information.

- (a) An applicant for a special Certificate of Approval whether for exterior alteration, addition, restoration, renovation, relocation or demolition shall submit an application to ARHPB accompanied by photographs, elevations, site plans, floor plans, and samples of materials as deemed appropriate by ARHPB to fully describe the proposed appearance, materials and architectural design of the building, other outbuilding and site plan. The applicant shall provide adequate information to enable ARHPB to visualize the effect of the proposed action on the applicant's building and its adjacent buildings and streetscapes.
- (b) In the event that the applicant is requesting a Certificate of Approval for demolition, ARHPB shall be provided with the details for the proposed disposition of the site. ARHPB may require architectural drawings, financial plans or other information regarding any proposed new construction. Proposed demolitions shall be reviewed in accordance with Section 98-194 of this Code.

(7) Meeting Notices.

ARHPB shall rule upon applications for a Certificate of Approval during a duly noticed public meeting. Notice of meetings shall be posted at City Hall, on the City's Website, at least seven (7) days in advance of the noticed meeting. All notices must state the type (i.e., regular or special), time, place, and date of the meeting to be held.

(8) Decision of ARHPB.

The decision of ARHPB shall be based upon the guidelines set forth in Section 98-192 as well as the general purpose and intent of these regulations and any specific planning objectives and the *Design Standards and Guidelines Manual* officially adopted for the Historic Downtown District. The decision may include such incentives or conditions for preservation as ARHPB finds appropriate. The decision of ARHPB shall include a description of the reasons for such findings and details of the public interest that is sought to be preserved and shall direct one or more of the following actions:

- (a) Issuance of a Certificate of Approval for the work proposed by the applicant; or
- (b) Issuance of a certificate with conditions; or
- (c) Denial of the application and refusal to grant a Certificate of Approval; or
- (d) Issuance of a special Certificate of Approval with a deferred effective date of up to six (6) months from the date of ARHPB's decision in cases of demolition or moving of a significant building.

(9) Time limit.

ARHPB shall act upon an application within sixty (60) days of receipt of a completed proposed application. The time limit may be waived at any time by mutual written consent of the applicant and ARHPB. Certificate of Approvals shall be effective for a period of one (1) year from the action of ARHPB or from the time frame approved with the project's site plan.

(10) Records.

The decision of ARHPB shall be issued in writing. Evidence of approval of the application shall be by Certificate of Approval issued by ARHPB's designated staff representative to the applicant, and whatever its decision, notice in writing shall be given to the applicant, City Manager, City Clerk and the Director of the Community Development Department. When an application is denied, ARHPB's notice shall provide a written explanation of its decision. ARHPB shall keep a written record showing its action on each application considered. In cases where a project must also be reviewed by DRC, ARHPB shall keep DRC apprised of the status of an applicant's application and any Certificate(s) of Approval that may be issued by ARHPB. Such information shall be considered by DRC in rendering its recommendations to either the City Commission or the City's Planning and Zoning Board, whichever may be applicable.

(11) Appeals.

- (a) *Time for Appeal.* Any substantially affected party may appeal any decision of ARHPB to the City Commission by filing, within fifteen (15) days after the date of the decision with the Community Development Department, a written notice of appeal and an appeal fee as established by the schedule of fees. The notice shall set forth concisely the decision appealed from and the reason or grounds for the appeal.
- (b) *Record in Underlying Proceedings.* Applicant shall submit twelve (12) sets of the application plans and other information that was part of the application submitted to the City and ARHPB with the appeal.
- (c) *Decision.* An appeal of a decision rendered by ARHPB shall be heard by the City Commission, which shall hear as a public hearing and consider all facts material to the appeal and render a decision . The City Commission may affirm, modify or reverse ARHPB's decision. The decision of the City Commission shall constitute final administrative review. Appeals from decisions of the City Commission may be made to the courts as provided by the Florida Rules of Appellate Procedure.
- (d) *Consolidation of Appeals.* If an applicant has timely appealed an ARHPB decision in conjunction with a timely appeal of a determination of the Development Review Committee ("DRC") or a Planning and Zoning Board decision, and the appeals pertain to the same project or application, such appeals, if still pending, shall, in the interest of administrative economy, be consolidated and scheduled for a single public hearing before the City Commission as to all matters raised in both or all appeals. Notwithstanding the requirements of Article II, Division 5, of Chapter 118 of this Code, or any other appellate provisions of this Code, an appeal consolidated pursuant to this subpart shall be noticed and heard in the same manner as appeals from the Planning and Zoning Board as set forth in § 98-31 of this Code.

(12) Change in approved work.

- (a) The City staff shall review any change in work proposed subsequent to the issuance of a Certificate of Approval. In determining whether a change requires AHRPB review, City Staff shall consider the following factors:
 - i. Whether the change conforms with the *Design Standards and Guidelines Manual*;
 - ii. Whether the change conforms to the historic context and appearance of the structure;
 - iii. The degree to which the change alters the conditions of the previously approved Certificate of Approval; and
 - iv. Whether the change will result in a recognizable alteration of the structure's anticipated finished appearance. Substitute materials shall be allowed if they are of similar appearance and quality to those originally proposed.
- (b) If the City staff finds that the proposed change does not require AHRPB review, it may issue a supplementary standard Certificate of Approval for such change. For changes requiring ARHPB review, the applicant shall be required to submit a new application for Certificate of Approval, accounting for such changes. Such new application shall be reviewed by ARHPB in accordance with this Article.

(13) Architect's Certification.

No Certificate of Occupancy shall be issued for any new structure until the applicant provides the City with certification that all work has been completed in accordance with the terms and conditions of the applicable Certificate of Approval. Modifications to commercial structures shall also be required to obtain the architect's certification. Single family residential renovations may need the architect certification. The Building Official shall determine the need for the certification based on the nature of the work being performed to the residence. Such certification shall state that the undersigned architect has:

- (a) Reviewed the terms and conditions of the Certificate of Approval;
- (b) Is familiar with the applicable elements of the City's *Design Standards and Guidelines Manual*;
- (c) Has performed a visual inspection of the completed project; and
- (d) Has determined that the finished project reasonably conforms to the architectural design identified in the Certificate of Approval.

Sec. 98-191. Application requirements.

- (1) With the application for Certificate of Approval, the applicant shall submit the following documents. All plans shall be submitted on a minimum 11"x 17" sized sheet and shall be drawn to scale. The administrative official may waive any of these requirements if not applicable to the specific application:
 - (a) An accurate survey, completed by a surveyor registered in the state of Florida. Surveys are required for new construction including, but not limited to, the construction of fences, walls, accessory structures and additions.

- (b) For new construction, additions or renovations: a site plan showing the complete property with dimensions of the existing and proposed buildings, spacing, all setbacks, individual parking spaces, access drives fences, and accessory structures. The site plan shall be reviewed by the City's Development Review Committee (DRC), while the architectural elevations shall be reviewed by City Staff and then forwarded to ARHPB as appropriate.
 - (c) A floor plan of the proposed improvements, if there is an anticipated impact on the exterior of the building.
 - (d) Elevations of the exterior facades, if any changes are proposed to the facades.
 - (e) Sign plan and individual dimensioned sign drawings shall specify proposed materials and colors, and shall show location of signs on site plans and building elevation.
 - (f) Picture/brochure and dimensions of any fence(s) to be installed.
 - (g) Paint samples – that uses historic palette colors.
 - (h) Recent photographs of the building/building features to be modified – No Polaroid photographs shall be allowed.
- (2) ARHPB Meeting and Hearings. The following shall apply to ARHPB's consideration of applications for Certificates of Approval:
- (a) Review criteria. Decisions regarding the application shall be based on a finding of fact stating whether the proposed alteration, demolition, etc. is consistent with the standards and characteristics of this Historic Downtown Overlay District.
 - (b) Public meeting. ARHPB shall hold a public meeting, and based upon the application and the requirements of this Article and the *Design Standards and Guidelines Manual*, ARHPB shall approve, deny or approve with conditions. If the application is approved with conditions, the Certificate of Approval shall be issued with the conditions noted, and the applicant must meet all such conditions. Failure to comply with all conditions may void the architectural approval and further subject the applicant to enforcement pursuant to § 98-198 of this Code.
 - (c) Posting. Public notice in the form of a property posting shall be required only if the ARHPB is considering a request for demolition, relocation, variance, or deviation from these requirements. Notice of the time, place, and date of the ARHPB meeting at which such request will be considered shall be posted on a sign in a location where such sign may be readily observed and easily read from the street. Such sign shall be posted for at least ten (10) consecutive days prior to the ARHPB meeting.

Sec. 98-192. General criteria and standards.

- (1) Maintenance Required. The City shall require commercial buildings and structures to be properly maintained. The following information is intended to complement the criteria and standards as listed in Article II, Division 7 of Chapter 18 of this Code.
- (2) Standards for new construction, additions and alterations. When considering an application for Certificate of Approval, ARHPB shall adhere to the standards contained in this Section and as set forth in the adopted *Design Standards and Guidelines Manual*. The purpose of these design standards is to ensure that all new construction, maintenance,

alterations, and additions to structures in the Historic District or to a historic landmark is in accordance with the character of the landmark or District.

Any request requiring a building permit and determined by the administrative official to have an impact on an historic landmark or the exterior of a structure in the Historic District shall be reviewed by ARHPB using the standards set forth in this Article and in the *Design Standards and Guidelines Manual*.

The *Design Standards and Guidelines Manual* identifies both residential and commercial design standards and guidelines in the Historic Downtown Overlay District. This Manual is on file in the Planning & Zoning Division of the Community Development Department and shall be posted on the City's website. The manual shall be adopted by Resolution.

(3) *Federal Standards.* The United States Secretary of the Interior's *Standards for Rehabilitation*, as revised in 1995 or subsequently, are available for use as a guide for building renovations and remodeling. These standards are on file in the Planning and Zoning office of the City and are also available on the Federal Government website at www.nps.gov/history/hps/tps/standguide/. A property owner must follow these standards for rehabilitation to obtain federal tax credits, incentives, or other program benefits for the purpose of furthering historic preservation. The standards and guidelines of this Article shall continue to apply in addition to aforementioned *Standards for Rehabilitation*.

(4) *Architectural styles.* Any alteration to an existing historic landmark or a Contributing Structure within the Historic Downtown District shall be consistent with its architectural style. Minor alterations to non-Contributing Structures within the Historic Districts shall be consistent with the structure's present style. Major alterations that would substantially restore or otherwise change the appearance of a non-Contributing Structure shall be consistent with the *Design Standards and Guidelines Manual* and based upon one of the residential styles identified therein. Part I of the *Design Standards and Guidelines Manual* shows the main characteristics of the styles found in the City of Winter Garden Historic Downtown District. To determine whether an alteration to a non-Contributing Structure is major or minor, the following factors shall be considered:

(a) The proportionate impact of the alteration to the appearance of the structure as a whole;

(b) When, given the scope of the alteration proposed, it would be practical or cost-effective to require adherence to a new or different style identified in the *Standards and Guidelines Manual*.

Regardless of the foregoing, any alteration proposing to renovate, add, or remove more than 50% of the square footage of the structure shall be considered a major alteration for the purposes of this section.

(5) *General standards for all properties.* In order to ensure compliance with the objectives to both preserve existing properties, and promote redevelopment and new development when necessary, the standards contained in the following sections have been established to assist property owners when designing; and ARHPB when reviewing alterations to local historic landmarks or to existing structures within the City's Historic Downtown

Districts. The standards apply to new construction as well as alterations to existing structures.

(6) Lot layout. New buildings, additions and alterations shall be designed so that the front facades of the buildings are closely aligned with other buildings on the block to maintain a uniform setback.

a. Residential lot layout.

i. Setbacks: Setbacks apply to both principal and accessory structures. Residential lot development shall have the following setbacks:

(1) Front yard: 20 feet;

(2) Rear yard: 25 feet or 15 feet from center of alley;

(3) Side yard: 5 feet; when a side yard is located adjacent to a street, the side yard setback shall be 7 ½ feet.

In the case of an infill lot, the setbacks shall match one or more of the existing setbacks on adjacent properties.

b. New open porches, balconies, stoops and bay windows shall be permitted to encroach into the front yard by a maximum of ten (10) feet or half the distance of the side setback.

c. Garages. Garages shall be detached and located behind the principal structure. Shared driveways are encouraged. Adjacent single-wide garage doors are preferable to a double-wide garage door when visible from the street. Driveways shall not exceed 10 feet in width at the sidewalk. When an alley to the rear of the structure is present, garages shall be positioned so as to open onto such alley. A roof extension or covered walkway from residence to a garage is permitted, provided that such extension or cover is compatible and consistent with the architectural style of the roof of the principal structure.

d. Vehicles shall not be parked in the front or side yards or in the right-of-way adjacent to any street unless on an approved driveway with a permitted curb cut.

(7) Commercial lot layout.

a. Setbacks:

i. New Buildings. New buildings, within the Commercial District shall have a zero (0) to five (5) foot setback from the front property line. When fronting on a secondary street other than West Plant Street, new buildings shall have a setback of two (2) to twelve (12) feet. Side setbacks shall have a zero (0) to twenty-four (24) foot setback. Rear setbacks shall be at least a three (3) foot minimum.

ii. New Accessory Buildings. New Accessory Buildings shall have a setback of at least forty (40) feet from the front property line. The front setback from a secondary street corner shall be zero (0) to two (2) feet at the corner. Side setbacks shall be a maximum of 3 feet.

b. Front Buildout. Building facades within the Commercial Historic Downtown District shall extend along the street to a minimum of ninety (90%) percent of the lot width for interior lots, and sixty (60%) percent for corner lots.

c. Parking Areas and Standards.

i. Parking Areas. Parking areas shall be located to the side and rear of the building, at least 25 feet behind the Frontage Line. Properly landscaped berms may be approved for installation around a surface parking area. A secondary pedestrian entrance may be provided in the back of the business to provide direct customer access to the store from parking areas, or a walkway shall be provided to improve circulation between the parking lots and the street. Architectural embellishments, awnings, landscaping and signs shall be used to mark the secondary entrance. The design of the rear of the building shall be consistent with the front façade.

ii. Parking Standards. Parking standards for new building square footage shall be consistent with city parking regulations. Shared parking, where permitted, is encouraged. As an alternative to providing project parking, a project may contribute into the city's downtown parking fund, in accordance with Section 118-1389 (Ordinance 09-04) as amended.

iii. Building Functions. Building functions and uses shall be limited to commercial retail or office on the first floor; residential, commercial, office, parking or lodging on the second floor; and, office, residential, parking or lodging above. Civic and religious assembly functions are permitted on the ground and upper floors.

iv. Drive-Through Facilities. Drive-through facilities are prohibited within the Historic District.

(8) Standards for all Structures.

a. To maintain the predominant scale and proportion in the Historic District, new buildings, additions, and alterations shall be designed so that elements of the building façade are aligned with the façade elements of the neighboring structures (e.g., windows, doors, canopies, storefronts, awnings, etc.).

b. New construction shall be compatible with the size and scale of the property, neighborhood, and immediate environment.

c. All new buildings shall have the main entrance oriented to the principal street and in full view from the public right-of-way.

d. Alterations to historic landmarks and Contributing Structures within the Historic District shall be consistent with the design, massing and scale of the existing structure and the surrounding area. Physical size and scale shall be compatible to existing Contributing Structures without overwhelming them.

e. Alterations to the façade of non-Contributing Structures should adopt historical references and compatible architectural forms as set forth in the Design Standards and Guidelines Manual. Physical size and scale shall be compatible to existing Contributing Structures without overwhelming them.

- f. When practicable, restoration of a Contributing Structure should use original construction techniques and materials. The replacement of missing parts or parts in disrepair must integrate harmoniously with the entire structure. The historic character and unity of the structure shall be preserved.
 - g. Additions or alterations to structures shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the original structure would be unimpaired.
- (9) Residential building form. Refer to the *Design Standards and Guidelines Manual* for the “Encouraged” and “Strongly Discouraged” standards.
- a. New construction. New building placement, heights, parking, and massing should relate to nearby buildings and to the historic urban context. New construction shall allow for infill development or redevelopment of individual residential lots that is consistent with either the architectural styles of surrounding homes, if not discouraged by the *Design Standards and Guidelines Manual*, or the residential architectural styles that are predefined in the Historic District as set forth in the *Design Standards and Guidelines Manual*. The predefined historic architectural styles are: Frame Vernacular, Bungalow Mission, Classic Revival, Gothic Revival, Minimal Traditional, Masonry Vernacular, Prairie, Tudor Revival, and such other authentic architectural styles from the late 19th Century and early 20th Century as may be identified and incorporated into the *Design Standards and Guidelines Manual*.
 - i. In the Residential Historic District, the scale and massing of new structures and their architectural elements shall be similar to the Contributing Structures of similar use in the Historic District.
 - ii. In the Residential Historic District, new buildings shall not exceed thirty-five (35) feet in height measured to the top of the roofline.
 - iii. Primary residential entries for new structures shall face the street and shall not be recessed more than six (6) feet from the face of the primary façade.
 - b. Additions. Additions and minor alterations to houses shall respect and adhere to the existing architectural style. A major alteration to the façade of a non-Contributing Structure should adopt historical references and architecture compatible with Contributing Structures as set forth in the *Design Standards and Guidelines*.
 - c. Garages, accessory structures, and swimming pools. Garages, accessory structures, swimming pools, and pool decks shall maintain the existing character of residential structures through appropriate design, construction, and maintenance.
 - d. Building colors. All structures shall use paint color that is appropriate for the predominant architecture of the structure and the Historic District. Colors shall relate attractively to the predominant colors of adjacent and visually-related Contributing Structures. Bright colors, florescent colors, primary colors, highly contrasting color combinations, and uneven paint application without an historic reference in late nineteenth century and early twentieth century Florida vernacular architecture are not allowed. Paint manufacturers have historic color palettes to choose from a wide range of colors for historic structures. Photographs of structures in the *Design Standards and Guidelines Manual* provide examples of colors acceptable in the Historic District.

e. *Porches and balconies.* Porches and balconies shall provide for the use and enjoyment of property for both viewing and seating areas as appropriate and shall complement the architectural style of the structure.

f. *Fences and walls.* Fences and walls shall provide necessary screening and security using aesthetic materials compatible with the Historic District, either at the property boundary or other designated locations on a site. New chain-link fences are prohibited.

10) *Commercial building form. Refer to the Design Standards and Guidelines Manual for the “Encouraged” and “Strongly Discouraged” standards.*

a. *New and restored buildings shall be designed with architectural features and patterns that provide visual interest from the perspective of the pedestrian, bicyclist, as well as vehicular traffic. New buildings shall be designed in the mercantile/masonry vernacular or such other authentic architectural styles from the late 19th century and early 20th century as may be identified and incorporated into the Design Standards and Guidelines Manual.*

b. *Building Heights.*

(1) *The height of buildings in the Commercial Historic District shall not exceed sixty (60) feet, including roof, parapet or cornice. Buildings at the corner of two (2) streets may have embellishments at the corner that are proportionately higher, not to exceed five (5) additional feet for a total of sixty-five (65) feet. Buildings in the commercial Historic District shall not exceed four (4) stories. To minimize a “canyon” effect, the fourth story of buildings in the Commercial Historic District shall be set back between five (5) to ten (10) feet from any street side façade of the building.*

(2) *Buildings in the Residential-Neighborhood Commercial District may not exceed three (3) stories or forty (40) feet in height.*

c. *Storefronts and Facades.* Primary customer entrances shall be clearly defined and highly visible through the use of architectural detail for all structures. Storefronts and Facades shall provide an appropriate exterior elevation to the street or other property exposures that complements the architectural style and building function.

(1) *Windows and doors.* Windows and doors shall maximize visibility to street on the ground floor. The height of storefront openings in new buildings shall be similar to the storefront openings of other Contributing Structures within the district.

(2) *Overhangs and Awnings.* Entranceways shall provide protection from the sun and adverse weather conditions for patrons. Overhangs and awnings shall be no less than three (3) feet deep to function and protect pedestrians from inclement weather and bright sunlight. Awnings should fit into the storefront’s overall architecture and appearance.

(3) *Porches and balconies.* Porches and balconies shall provide for the use and enjoyment of property for both viewing and seating areas as appropriate to complement the architectural style of the structure.

(4) *Expression Line.* For new construction, there shall be a visual differentiation, such as a change in material or texture, or a limited projection such as a molding or balcony between the first and second story on a two (2) story building or

between the two (2) lower floors and the rest of the building on a building taller than two (2) stories. The differentiation shall be at a height similar to the cornice lines or stringcourses of Contributing Structures in the Historic District.

d. Scale and Massing.

- (1) The scale and massing of the lower floors of new structures and their architectural elements shall be similar to Contributing Structures in the Historic District. Any new structure that exceeds fifty (50) linear feet along any street frontage shall break up the appearance of the façade's mass by adding projections and recesses to make the structure similar in scale to Contributing Structures in the Historic District.
- (2) New buildings and additions shall include substantial variations in massing such as changes in height and the horizontal plane.
- (3) Horizontal masses shall not exceed a height/width ratio of 1:3 without a substantial architectural element that either projects up or away from the building such as a tower bay, lattice, or other architectural feature (e.g., a substantial architectural element shall be added to a building exceeding thirty (30) feet in height, with ninety (90) feet of frontage).
- (4) New building walls shall be enhanced by the use of vertical elements, articulation and landscaping to avoid architectural monotony.

e. Roofs and Mechanical Equipment.

- (1) New and restored buildings shall have a recognizable top consisting of either pitched roofs or varying roof lines, including but not limited to, cornice treatments, roof overhangs with brackets, steeped parapets, richly textured materials and/or differently colored materials. However, existing buildings originally designed with flat-top roofs shall be permitted to maintain such roofs in keeping with the building's original design. Colored stripes are not acceptable as the only treatment. Mansard roofs are prohibited as the predominant roof style.
- (2) Rooftop mechanical equipment shall be integrated into the overall mass of a building by screening it behind parapets or by integrating equipment into roof forms. Plain boxes are not acceptable as screening devices.
- (3) Any structures placed on the roof shall be located at least ten (10) feet from the perimeter or edge of the structure.

f. Retail to Cover Structured Parking Garages. The first floors of new buildings, including structured parking, should be designed to encourage pedestrian scale activity. First-floor retail or other building Functions allowed by this Ordinance shall cover structured parking garages when fronting West Plant Street or Dillard Street.

h. Signs. Signs shall be used to communicate one or more business names and may provide other necessary information such as identification of the type of business. Signs shall relate harmoniously to exterior building material, texture and color; express a simple, clear message; and contain a minimum number of words. Signs shall comply with Division 2, Section 118 of this Code.

- i. Utility and refuse area. Above ground utilities and refuse storage areas shall have necessary screening. Trash receptacles shall be accessible by appropriate vehicles for maneuvering and disposal of refuse.
- j. Fences or garden walls. Perimeter fences or walls shall not disrupt or hide the front elevation of structures.
- k. Landscaping. Landscaping should predominantly use plant species indigenous to the State of Florida.

Sec. 98-193. Administrative review/exempt from Board review.

The City will provide for procedures for administrative reviews as stated below that only require staff review.

- (1) Approval of the administrative official. The designated administrative official of the City's Architectural Staff is authorized to issue Certificates of Approval for construction and alteration of a historic landmark or property in the Historic District that have been deemed by ARHPB to be routine alterations. All other construction and alterations within the Historic District shall be submitted for ARHPB review.
- (2) The ARHPB shall maintain a list of routine alterations that may receive approval from the Planning and Zoning Division and permit from the Building Division without Board review when an applicant complies with the design guidelines of ARHPB. These routine alterations shall initially include the following but may be subsequently amended or expanded upon by ARHPB:
 - (a) Repair of cornices using existing materials and duplicating the original design.
 - (b) Decks at the ground level that are not visible from any street and do not require alterations to any structure.
 - (c) Installation of new doors that are substantially similar in size and style to the original.
 - (d) Installation of fencing located behind any street façade.
 - (e) The painting of any material or surfaces, other than unpainted masonry, stone, brick, terracotta and concrete, in a color appropriate to the architectural style or period of original construction.
 - (f) The replacement of front porch columns with columns matching the original in style, size, and material.
 - (g) The replacement of a roof with one of the same material, size, and color.
 - (h) The repair of wooden siding with wood which duplicates the original appearance.
 - (i) Installation of skylights not visible from any street front.
 - (j) The replacement of windows with windows substantially similar in size and style to the original.
 - (k) Mechanical systems including heat and cooling equipment and gutters.
 - (l) One accessory structure under 100 square feet in rear yard.
 - (m) Exterior lighting (no spot lights allowed).

- (n) Replacement awnings that are either same color and style as the original awnings or that otherwise comply with this Article and the *Design Standards and Guidelines Manual*.
- (o) Signs such as replacement signs or new tenant signs as long as such signs comply with this Article and the *Design Standards and Guidelines Manual*.
- (3) ARHPB review is not required for the maintenance of any exterior building features when such work exactly reproduces the existing design and is executed in the replacement of existing material.
- (4) A Certificate of Approval shall not be required for general or occasional maintenance. Occasional maintenance will include, but not be limited to, lawn and landscaping care and minor repair that restores or maintains the historic site or current character of the building or structure. A Certificate of Approval shall not be required for any interior alteration that does not affect the exterior appearance of the structure.
- (5) Any exterior alteration or new construction which is not visible from any street or roadway may receive a Certificate of Approval from the City's Architectural Staff without action from ARHPB when an applicant complies with the design guidelines of ARHPB.
- (6) The ordinance designating a landmark, landmark site or historic district may designate additional exceptions to a Certificate of Approval or ARHPB review.
- (7) In any instance where a Certificate of Approval for demolition has been denied, the applicant may reapply upon the expiration of twelve (12) months from the date of the initial decision of ARHPB denying the Certificate of Approval, regardless of whether the applicant appeals the initial decision.
- (8) City projects will adhere to the design standards and guidelines of this ordinance and do not require a Certificate of Approval.
- (9) Any city staff determination as to whether ARHPB review of an application is required or as to whether a Certificate of Approval for a particular project is required may be appealed to ARHPB within 15 days of such decision, at which time ARHPB shall schedule a *de novo* hearing on the decision at its next regular meeting scheduled at least 15 days after receipt of the appeal.

Sec. 98-194. Demolition.

- (1) *Criteria for reviewing demolition applications.* Demolition of an historic or Contributing Structure or architectural feature constitutes an irreplaceable loss to the quality and character of the Historic District. Therefore, no structure within the Historic District shall be demolished or removed, in whole or in part, until after a Certificate of Approval for demolition has been approved by ARHPB based on the following criteria:
 - (a) The structure is of such interest or quality that it would reasonably meet national, state or local criteria for designation as a historic landmark.
 - (b) The structure is of such design, craftsmanship or material that it could be reproduced only with great difficulty and/or expense.

- (c) The structure is one of the last or few remaining examples of its kind in the city the county, or the region.
 - (d) The structure contributes to the historic character of a designated district.
 - (e) Retention of the structure promotes the general welfare of the city by providing an opportunity for the study of local history, architecture, and design, or by developing an understanding of the importance and value of a particular culture and heritage.
 - (f) The historic, architectural or environmental significance of the structure to the overall ensemble of structures within the Historic District and the importance of the structure to the integrity of the Historic District.
 - (g) There are definite plans for reuse of the property if the proposed demolition is carried out, a funding commitment appropriate for such reuse plans, a reasonable timeframe for project initiation and completion, and an explanation of what the effect of those plans will have on the architectural, historical, archaeological, social, aesthetic or environmental character of the Historic District and surrounding area.
 - (h) Whether reasonable measures can be taken to save the structure from further deterioration, collapse, arson, vandalism or neglect.
 - (i) Any determination by the Building Official that the structure is an imminent hazard to public safety.
 - (j) The economic hardship imposed on the owner if the application for Certificate of Approval for demolition is denied.
 - (k) Any measures that have been taken to prevent the structure from deteriorating, such as performance of normal maintenance and repairs and provision of normal tenant improvements. In addition, whether the structure was willfully or negligently allowed to deteriorate.
 - (l) The extent of the demolition to be performed.
- (2) Reconstruction. Local historic landmarks or Contributing Structures within the Historic District that have been destroyed by fire or other natural disaster may be ameliorated by efforts to reconstruct the resource. Reconstruction means the process of reproducing by new construction the exact form and detail of a demolished building structure or object as it appeared at a certain point in time. ARHPB shall encourage reconstruction when appropriate.
- (3) Waiting period. If a Certificate of Approval is issued by ARHPB for demolition of a Contributing Structure or structure currently being considered by ARHPB for Contributing status, the Certificate of Approval must include the condition that the applicant must wait for a total period of up to ninety (90) days before the applicant may perform such demolition or relocation in accordance with this ordinance. ARHPB will specify a specific time frame for demolition in the Certificate of Approval for demolition. During this period, ARHPB may negotiate with the owner of the landmark and with any other party to find a means of preserving the property including the acquisition by gift, purchase, exchange or otherwise of the property or any interest therein.

- (a) Extension of waiting period. To facilitate negotiations or allow for further rehabilitation efforts, ARHPB may extend the waiting period for demolition for up to six (6) months. Such six (6) month maximum waiting period may once be extended by the City Commission for an additional period of up to, but not exceeding ninety (90) days, upon a recommendation from ARHPB that:
- i. There is a program or project in progress which may result in acquisition of the property for the purpose of its preservation and/or restoration; and
 - ii. There is a reasonable basis to believe that the program or project will be successful.
- (b) Reduction/waiver in waiting period. ARHPB may reduce or waive the waiting period required by this section in any case where the owner would suffer extreme hardship, not including loss of profit, unless a reduction in the required period were allowed. ARHPB shall also have the discretionary authority to waive all or any portion of the required waiting period provided that the proposed alteration, remodeling, relocation or change of use is undertaken subject to conditions agreed to by ARHPB insuring the continued maintenance of the historical, architectural, or cultural integrity and character of the property.
- (4) Economic hardship. Economic hardship shall be determined in accordance with this section. When a claim of extreme economic hardship is presented, proof shall be submitted that the applicant cannot realize a reasonable and beneficial use of or economic return from the property. If the property is residential and non-income producing or is an accessory structure, the owner shall not be required to prove economic hardship. In the case of a demolition of a structure where the principal facades remain intact, the owner shall not be required to prove economic hardship. ARHPB shall make findings based on each of the following factors provided by the applicant:
- (a) The marketability or salability of the property, considered in relation to any listing of the property for sale or rent, price asked, and offers received, if any, within the previous three years.
 - (b) The feasibility of adaptive or alternative uses for the property that can earn a reasonable economic return for the property as a report from a licensed engineer or architect with experience in rehabilitation, as to the structural soundness of any structures on the property and their suitability for rehabilitation will be provided.
 - 1) An estimate of the cost of construction, alteration, demolition, or removal, and estimate of any additional cost that would be incurred to comply with the recommendation and decision of ARHPB concerning the appropriateness of proposed alterations.
 - 2) The estimated market value of the property in the current condition, after completion of the demolition, after completion of the proposed construction, and after renovation of the existing property for continued use.
 - 3) The testimony of an architect, developer, real estate consultant, appraiser, or other real estate professional experienced in rehabilitation as to the economic feasibility of rehabilitation or use of existing structures on the property.

- 4) Proof of the financial ability to complete the replacement project.
 - 5) The current fair market value of the property, as determined by at least two (2) independent appraisers certified by the State of Florida.
- (c) Any other information the applicant or ARHPB finds is relevant to demonstrate extreme economic hardship or the lack thereof.

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

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

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

In the event that a Contributing Structure or a structure being considered by ARHPB for Contributing status is in disrepair and is in the course of being “demolished by neglect,” the owner of record shall be notified of the condition of the structure and the items that need repair via certified or registered mail. ARHPB shall request a meeting with the owner or the tenant of the building and ARHPB shall present ways to improve the condition of the property or otherwise protect any Contributing Structure or a structure under consideration for Contributing status. If the owner or tenant fails to appear at such meeting or fails to initiate corrective action within thirty (30) days after such meeting, ARHPB shall notify the appropriate code inspector of the violation or initiate or otherwise recommend any other corrective action deemed necessary as authorized in Section 98-198 of this Code.

- (6) Emergency Demolition. Notwithstanding the existence of a valid Certificate of Approval, the City reserves the right to initiate and carry out its own demolition of a structure pursuant to Chapter 18, Article II, Division 5 of this Code. If the structure to be demolished is a Contributing Structure or a structure currently being considered by

ARHPB for Contributing status, the following additional conditions must be met prior to demolition:

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

An Emergency Demolition conducted pursuant to this subsection shall not relieve a property owner or agent thereof of liability or responsibility for Demolition by Neglect as provided for in § 98-194(5) of this Code.

- (7) *Permits.* Prior to the recommendation of demolition, the applicant shall be required to obtain a building permit for new development based on the standards set forth in this ordinance. Once the city has approved the permit for replacement construction, the demolition permit may be issued. When the permit is for a Contributing Structure or structure being considered by AHRPB for Contributing status, absent exigent circumstances permits shall not be issued until all plans for the site have received all the necessary approvals.
- (8) *Documentation requirements.* Every Contributing Structure or structure being considered by AHRPB for Contributing status in both the residential and the commercial Historic Districts that is approved for demolition by ARHPB or is determined by the building official to be an imminent hazard and is to be subsequently demolished, shall be documented prior to demolition consistent with the State of Florida Bureau of Historic Preservation Division of Historic Resources' *Documentation Requirements For Buildings Proposed For Demolition and Standards For Architectural Documentation.* The documentation shall be submitted to the historic preservation board to be kept on file by the city. This documentation, which usually consists of dimensioned drawings, photographs and written data, provides important information on a property's significance for use by the City and ARHPB to justify the necessity for demolition. A demolition application form shall be filled out and reviewed by the City along with all of the other required information before a request for demolition will be reviewed.
- (9) *Partial demolition.* Projects meeting the definition of "partial demolition" as set forth in this Article shall not be considered demolitions subject to this Section, but instead shall be reviewed and considered in the same manner as alterations to a property or structure within the Historic District.

(10)Non-Contributing Structures. Owners of non-Contributing Structures or structures that are not currently being considered by ARHPB for Contributing status shall not be required to show economic hardship in applying for a Certificate of Approval for demolition for such structures. Further, Certificates of Approval for demolition of non-Contributing Structures or structures not currently being considered for Contributing status shall be liberally granted to owners of such structures when:

- (a) the structure is in poor or otherwise substandard condition;
- (b) the structure is in general non-conformance with the requirements of this Article or the *Design Standards and Guidelines Manual*; and
- (c) the owner can demonstrate definite plans for reuse of the property if the proposed demolition is carried out, a funding commitment appropriate for such reuse plans, a reasonable timeframe for project initiation and completion, and an explanation of what the effect of those plans will have on the architectural, historical, archaeological, social, aesthetic or environmental character of the Historic District and surrounding area.

Sec. 98-195. Sign Standards for Commercial Projects.

Properties within the Historic District shall comply with the City's adopted sign regulations contained in the City's land development regulations, Chapter 118 Section 102, as well as the design standards set forth for commercial structures in this Article

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

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

Sec. 98-196. Outdoor storage.

- (1) Outdoor storage visible from any right-of-way shall not be allowed in the Historic District.
- (2) RVs and boats shall be parked in areas not visible from the public right-of-way, or screened by a six-foot-high fence. Boats and RVs may be parked in the rear yard of property behind the house. Any other permanent storage locations must be reviewed on a case-by-case basis by the Planning and Development Division Staff. However, it is the intent of this regulation to facilitate for residents of the Historic District the enjoyment

and use of recreational vehicles and boats while still maintaining the historical appearance of the district. Additionally, RVs and boats may be parked in front of residential structures for not more than two (2) days per calendar week.

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

The ADA extends comprehensive civil rights to individuals with disabilities. Historic properties, including buildings, sites and landscapes, are not exempt from the ADA and must comply with its regulations. Historic properties often can be made accessible while preserving their architectural character through careful planning and sensitive design.

(1) A three-step approach is recommended to identify and implement accessibility modifications that will protect the integrity and historic character of historic properties:

- a. Review the historical significance of the property and identify character-defining features. Thoroughly inspect and evaluate the character defining features, materials and spaces of a property before upgrading it for handicap accessibility. Significant materials, the form and style of the property, the principal elevations, major architectural and landscape features and the principal public spaces should be the items identified for preservation.
- b. Assess the property's existing and required level of accessibility. While inspecting a property, features, materials, and spaces of less significance to the historic character of the property should also be identified. Non-significant spaces, secondary pathways, additions, previous altered areas, utilitarian spaces, and service areas can usually be modified without threatening or destroying a property's historical significance.
- c. Evaluate accessibility options within a preservation context. Modifications for handicap accessibility should be compatible with the property. Modification should be in scale with the property, visually compatible in terms of their design and materials, but be differentiated from the original. They should be reversible so that if removed in the future, the essential form and integrity of the property would be unimpaired.

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

(3) Properties listed in or eligible for listing in the National Register of Historic Places and those designated under state or local law are qualified historic properties. Owners of qualified historic properties must first consult with the State Historic Preservation officer (SHPO) before using the alternative minimum requirements. If the SHPO determines that compliance with the full accessibility requirements would threaten or destroy the significance of a building or facility, the following alternative minimum requirements may be used:

- a. One accessible route must be provided from a site access point to an accessible entrance. Using a ramp with a 1:6 slope is permissible for a run of up to two (2) feet.
 - b. One accessible entrance must be provided. If it is not possible to make the public entrance accessible, then an alternative, unlocked entrance is acceptable. Directional signage at the primary entrance and a notification system at the accessible entrance must be provided.
 - c. If toilets are provided, only one restroom must be accessible and may be designated unisex.
 - d. Public spaces on the same level as the accessible entrance must be accessible, and other public levels should be accessible whenever practical.
 - e. Displays and written information should be located where a seated person can see them.
 - f. Horizontal signage should be no higher than forty-four (44) inches above the floor.
- (4) In limited circumstances, if it is determined in consultation with the SHPO that compliance with the alternative minimum requirements would also threaten or destroy the significance of a historic building, alternative methods of access may be used. The alternative methods of accessibility that may be used to make a buildings program and activities accessible include:
- a. Using audio-visual materials and devices to show inaccessible areas of a historic property.
 - b. Assigning persons to guide individuals with disabilities into or through inaccessible areas of a historic property.
 - c. Adopting other innovation methods.

Sec. 98-198. Enforcement; Civil Remedies

- (1) Except as otherwise provided herein, the requirements of this Chapter shall be enforced to the extent that the following enforcement mechanisms may be applicable:
- (a) By referral to or on the initiative of the code inspector or officer pursuant to the authority granted by Chapter 162, Part I, Florida Statutes, and Chapter 2, Article II, Division 2 of this Code; however, in no instance shall a civil penalty of less than \$100.00 per violation per day of violation be imposed;
 - (b) By citation for civil penalties pursuant to the authority granted by Chapter 162, Part II, Florida Statutes, and Chapter 2, Article II, Division 3 of this Code; however, in no instance shall a civil penalty of less than \$100.00 per violation per day of violation be imposed;
 - (c) Upon the determination of the City Commission, by a civil action in accordance with § 162.30, Florida Statutes; and/or
 - (d) Upon the determination of the City Commission, by an action for injunctive relief in a court of competent jurisdiction.

(2) Contractor Violations: Violations by contractors or other persons performing work on the property in contravention of the requirements of this Article may be assessed the following penalties or fines pursuant to the City's ordinary Code Enforcement procedures in accordance with Chapter 162, Part I, Florida Statutes, and Chapter 2, Article II, Division 2 of this Code, or, where such enforcement would prove ineffective or otherwise impractical, via § 162.30, Fla. Stat.

(a) Violations committed by a contractor or other agent hired by or working on behalf of the property owner to perform work or by a property owner who performed such work him/herself on any structure or property regulated pursuant to this Chapter are hereby deemed irreparable and irreversible, and shall be assessed as follows:

1. \$1,000.00 for a first violation;
2. \$2,000.00 for a second violation; and
3. \$3,000.00 civil fine or penalty for a third or subsequent violation, and the violator shall be prohibited from applying for a Certificate of Approval for work not associated with the correction of the violation for a period of three (3) months.

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

(b) For the purposes of this subpart, each unauthorized alteration of each separate historic element regulated by this Article shall constitute a separate violation. In the event that a property owner has performed the work him/herself, the fines or penalties assessed pursuant to this section shall be in addition to any fines or penalties related to nonconforming conditions on the subject property or other continuing violations of this Chapter. (d) An action for injunctive relief through a court of competent jurisdiction; and

(c) Persons holding a contractor's certification or license shall, upon an assessment or award of an administrative fine or civil penalty pursuant to this subpart, shall be referred to the Construction Trades Qualifying Board, and/or the appropriate state licensing board, for further enforcement.

(d) Any civil action to be initiated in a court of competent jurisdiction for the collection of monetary civil penalties assessed pursuant to this subsection must be referred to and approved by the City Commission prior to initiation of such action.

(3) In cases where a structure has been either demolished or relocated in violation of this Chapter, or where any building has to be demolished by the City pursuant to lawful condemnation procedures and the owner of said structure has received two or more notices from the City regarding neglect or failure to maintain the structure as herein required, a civil penalty shall be assessed in an amount equal to 30 percent of the market value of the property and structure(s) prior to its demolition, however this civil penalty

shall be no less than \$10,000. This civil penalty shall be in addition to and separate from any costs incurred by the City in removal of any structure and otherwise recoverable from the property owner. Additionally and separate from any civil penalty provision in this Section, there shall be no Certificate of Approval issued for new development on the subject property for a period of one (1) year from the date the City's judgment for civil penalties has become final, unless and only when such Certificate of Approval is issued to correct and repair a demolition in whole or in part. The ARHPB must refer matters to be assessed pursuant to this provision to the City Commission for final approval and authorization for enforcement through a court of competent jurisdiction in accordance with § 162.30, Fla. Stat.

- (4) In addition to civil penalties, any person altering, demolishing or relocating all or any portion of a structure in violation of the provisions of this Chapter may be required to repair or restore any such property or to return it to its former location and condition.
- (5) The owner or tenant of any structure subject to the regulations of this Chapter and any architect, planner, surveyor, engineer, realtor, attorney, builder, contractor, agent or other person who commits, participates in, assists in, or maintains a violation may be found guilty of a separate offense and suffer the same penalties or fines as the person or entity actually performing the unauthorized actions.
- (6) The daily accrual of any civil penalty or fine shall be tolled from the date a complete application for a Certificate of Approval seeking after-the-fact approval of unauthorized work is filed with the City until a final decision is rendered on such application. If such application results in a denial in whole or in part for the unauthorized work, the civil penalties or fines authorized under this Section for work associated with such denial shall be tallied uninterrupted from the original date of the violation.
- (7) Work that has been done without first obtaining a required Certificate of Approval or that has been done in violation of or contrary to an approved Certificate of Approval, including any conditions imposed therein, shall be considered irreparable or irreversible.
- (8) Civil penalty payments and administrative fines recovered pursuant to this Chapter shall be used to fund enforcement efforts under this Chapter, with any remainder being subject to allocation for a valid municipal purpose. Upon successful prosecution of any violation of this Chapter wherein the City has filed suit in a court of competent jurisdiction to recover a civil penalty and/or obtain injunctive relief, the City shall be authorized to recover its reasonable attorney's fees and costs.
- (9) For the purposes of this Section, the Community Development Director or his or her designee(s) shall be deemed a code inspector authorized to cite violators of this Article and request hearings before the City's code enforcement board or special magistrate, whichever may be applicable.

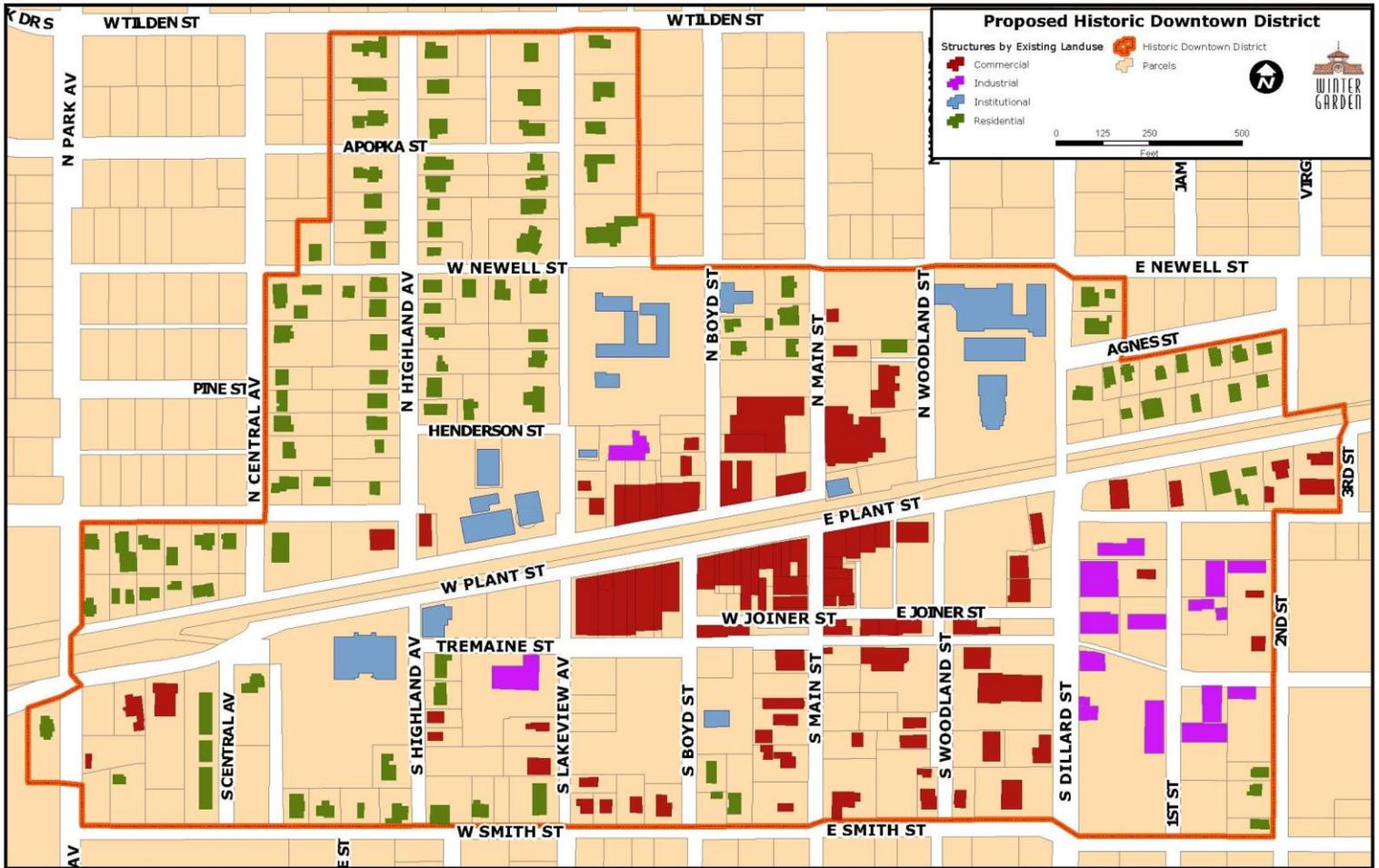
Sec. 98-199. Stop work orders.

Upon notice from a code inspector, building official, or his or her designee, work on any structure or property that is being done contrary to the provisions of this Article shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property or to his or her agent or to the person conducting such improper work and shall state the

particular code provision or standard such work violates and the conditions under which work may be resumed. Failure to comply with the terms and conditions of a stop work order issued pursuant to this Section shall constitute a violation of this Article, subject to enforcement pursuant to Section 98-198. Issuance of a stop work order shall not absolve the property owner, his or her agent, or the person conducting the improper work from complying with the demolition by neglect provisions of Section 98-194(5).

EXHIBIT "A" MAPS

HISTORIC DOWNTOWN DISTRICT AREA MAP



HISTORIC DOWNTOWN DISTRICT CONTRIBUTING STRUCTURES MAP



EXHIBIT “B”

HISTORIC DOWNTOWN DISTRICT **LEGAL DESCRIPTION**

Begin at the intersection of the West line of 2nd Street and the North line of E. Smith Street; thence run West along the North line of E. Smith Street and the North line of W. Smith Street to the intersection with S. Park Avenue; thence run North along the East line of S. Park Avenue to the intersection with the easterly extension of the south boundary of parcel described in Official Records Book 5097, Page 3912, public records of Orange County, Florida; thence run West and North along the boundaries of said parcel to the South line of W. Plant Street; thence run Northeasterly along the South line of W. Plant Street to the intersection with the East line of S. Park Avenue; thence run North to N. Park Avenue; thence continue North along the East line of N. Park Avenue to the intersection with the South line of W. Bay Street; thence run East along the South line of W. Bay Street to the intersection with the East line of N. Central Avenue; thence run North along the East line of N. Central Avenue to the intersection with the South line of W. Newell Street; thence run East along the South line of W. Newell Street to the southerly extension of the West line of the East 1/2 of Lots 9 and 10, Block D, Cooper & Sewell Addition, as recorded in Plat Book F, Page 39, public records of Orange County, Florida; thence run North and East along the boundaries of said East 1/2 of Lots 9 and 10 to the platted 10 foot ally way of said Cooper & Sewell Addition; the run North along platted 10 foot ally way to the South line of W. Tilden Street; thence run East along the South line of W. Tilden Street to the intersection of the East line of N. Lakeview Avenue; thence continue East along the South line of W. Tilden Street 172.48 feet to the East boundaries of parcels bordering N. Lakeview Avenue; thence run South along said East boundaries 480 feet; thence run East 38 feet; thence run South to the South line of W. Newell Street; thence run East along the South line of W. Newell Street to the East line of N. Dillard Street; thence run East along the South line of E. Newell Street 139.5 feet to the East boundaries of parcels bordering N. Dillard Street; thence run South along said East boundaries to the South line of Agnes Street; thence run Northeasterly along the South line Agnes Street to the West line of Virginia Drive; thence run South along the West line of Virginia Drive to the North line of the West Orange Trail; thence run Northeasterly along the North line of the West Orange Trail to a point North of the northerly extension of 3rd Street; thence run Southerly to the intersection of the South line of E. Plant Street with the West line of 3rd Street; thence run South along the West line of 3rd Street to the intersection with the North line of E. Bay Street; thence run West along the North line of E. Bay Street to the West line of 2nd Street; thence run South along the West line of 2nd Street to the Point of Beginning.

EXHIBIT "C"

HISTORIC DOWNTOWN DISTRICT CONTRIBUTING STRUCTURES



City Of Winter Garden
National Register of Historic Places
Winter Garden Historic Residential District

CL	RL	PID	YRBLT	STR#	DIR	STREET ADDRESS	S	T	R	SUB	BLK	LOT	Zoning	Land Use	Type 1	Type 2	Type 3	Type 4	Type 5	STYLE
CR		272214172806121	1925	119		HENDERSON ST	14	22	27	1728	06	121	R2	0100	0101					Bungalow-1920
CR		272214172806121	1925	119A		HENDERSON ST	14	22	27	1728	06	121	R2	0100	0101					Outbuilding-1920
CR		272214172805010	1921	104	N	HIGHLAND AVE	14	22	27	1728	05	010	R2	0100	0101					Frame Vernacular-1920
CR		272214172805010	1921	104A	N	HIGHLAND AVE	14	22	27	1728	05	010	R2	0100	0101					Outbuilding-1920
CR		272214172805030	1920	114	N	HIGHLAND AVE	14	22	27	1728	05	030	R2	0100	0101					Bungalow-1920
CR		272214172805030	1920	114A	N	HIGHLAND AVE	14	22	27	1728	05	030	R2	0100	0101					Outbuilding-1920
CR		272214172805040	1913	118	N	HIGHLAND AVE	14	22	27	1728	05	040	R2	0100	0101					Bungalow
CR		272214172805040	1913	118A	N	HIGHLAND AVE	14	22	27	1728	05	040	R2	0100	0101					Outbuilding-1920
CR		272214172806122	1937	121	N	HIGHLAND AVE	14	22	27	1728	06	122	R2	0100	0101					Bungalow-1925
CR		272214172806122	1937	121A	N	HIGHLAND AVE	14	22	27	1728	06	122	R2	0100	0101					Outbuilding-1925
CR		272214172805050	1920	124	N	HIGHLAND AVE	14	22	27	1728	05	050	R2	0100	0101					Bungalow-1915
CR		272214172805050	1920	124A	N	HIGHLAND AVE	14	22	27	1728	05	050	R2	0100	0101					Outbuilding-1915
CR		272214172805060	1920	128	N	HIGHLAND AVE	14	22	27	1728	05	060	R2	0100	0101					Bungalow-1915
CR		272214172805070	1914	136	N	HIGHLAND AVE	14	22	27	1728	05	070	R2	0100	0101					Bungalow-1912
CR		272214172805070	1914	136A	N	HIGHLAND AVE	14	22	27	1728	05	070	R2	0100	0101					Outbuilding-1920
CR		272214172805070	1914	136B	N	HIGHLAND AVE	14	22	27	1728	05	070	R2	0100	0101					Outbuilding-1920
CR		272214172806081	1920	145A	N	HIGHLAND AVE	14	22	27	1728	06	081	R2	0100	0101					Outbuilding-1925
CR		272214172805101	1944	148	N	HIGHLAND AVE	14	22	27	1728	05	101	R2	0800	0812					Bungalow-1912
CR		272214172806072	1925	149	N	HIGHLAND AVE	14	22	27	1728	06	072	R2	0100	0101					Bungalow-1920
CR		272214172804010	1925	202	N	HIGHLAND AVE	14	22	27	1728	04	010	R2	0100	0101					Bungalow-1925
CR		272214172804010	1925	202A	N	HIGHLAND AVE	14	22	27	1728	04	010	R2	0100	0101					Outbuilding-1925
CR		272214172804020	1925	206	N	HIGHLAND AVE	14	22	27	1728	04	020	R2	0100	0101					Bungalow-1925
CR		272214172804020	1925	206A	N	HIGHLAND AVE	14	22	27	1728	04	020	R2	0100	0101					Outbuilding-1925
CR		272214172801081	1938	211	N	HIGHLAND AVE	14	22	27	1728	01	081	R2	0100	0101					Frame Vernacular-1935
CR		272214172801081	1938	211A	N	HIGHLAND AVE	14	22	27	1728	01	081	R2	0100	0101					Outbuilding-1935
CR		272214172804040	1937	220	N	HIGHLAND AVE	14	22	27	1728	04	040	R2	0100	0102					Colonial Revival-1937
CR		272214172804040	1937	220A	N	HIGHLAND AVE	14	22	27	1728	04	040	R2	0100	0102					Colonial Revival-1937
CR		272214172802090	1925	229	N	HIGHLAND AVE	14	22	27	1728	02	090	R2	0100	0101					Bungalow-1923
CR		272214172802090	1925	229A	N	HIGHLAND AVE	14	22	27	1728	02	090	R2	0100	0101					Outbuilding-1923
CR		272214172803010	1926	230A	N	HIGHLAND AVE	14	22	27	1728	03	010	R2	0100	0101	0101				Prairie-1926
CR		272214172802080	1921	237	N	HIGHLAND AVE	14	22	27	1728	02	080	R2	0100	0101					Bungalow-1921
CR		272214172802080	1921	237A	N	HIGHLAND AVE	14	22	27	1728	02	080	R2	0100	0101					Outbuilding-1921
CR		272214172803030	1925	238	N	HIGHLAND AVE	14	22	27	1728	03	030	R2	0100	0101					Bungalow-1925
CR		272214172803030	1925	238A	N	HIGHLAND AVE	14	22	27	1728	03	030	R2	0100	0101					Outbuilding-1925
CR		272214172802060	1923	245	N	HIGHLAND AVE	14	22	27	1728	02	060	R2	0100	0101					Bungalow-1923
CR		272214172802060	1923	245A	N	HIGHLAND AVE	14	22	27	1728	02	060	R2	0100	0101					Outbuilding-1923
CR		272214172803040	1928	246	N	HIGHLAND AVE	14	22	27	1728	03	040	R2	0100	0101					Mediterranean Revival-1928



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CL	RL	PID	YRBLT	STR#	DIR	STREET ADDRESS	S	T	R	SUB	BLK	LOT	Zoning	Land Use	Type 1	Type 2	Type 3	Type 4	Type 5	STYLE
CR		272214172803040	1928	246A	N	HIGHLAND AVE	14	22	27	1728	03	040	R2	0100	0101					Mediterranean Revival-1928
CR		272214172806011	1918	104	N	LAKEVIEW AVE	14	22	27	1728	06	011	R2	0100	0101	0101				Bungalow-1918
CR		272214172806011	1918	104A	N	LAKEVIEW AVE	14	22	27	1728	06	011	R2	0100	0101	0101				Outbuilding-1920
CR		272214172806011	1918	104B	N	LAKEVIEW AVE	14	22	27	1728	06	011	R2	0100	0101	0101				Outbuilding-1920
CR		272214172806030	1921	112	N	LAKEVIEW AVE	14	22	27	1728	06	030	R2	0100	0101					Bungalow-1920
CR		272214172806030	1921	112A	N	LAKEVIEW AVE	14	22	27	1728	06	030	R2	0100	0101					Outbuilding-1920
CR		272214172806040	1925	118	N	LAKEVIEW AVE	14	22	27	1728	06	040	R2	0100	0102					Bungalow-1920
CR		272214172806040	1925	118A	N	LAKEVIEW AVE	14	22	27	1728	06	040	R2	0100	0102					Outbuilding-1920
CR		272214565600760	1930	125	N	LAKEVIEW AVE	14	22	27	5656	00	760	C1	7100	7100	7100	1200	1200		English Gothic-1942
CR		272214172806052	1921	130	N	LAKEVIEW AVE	14	22	27	1728	06	052	R2	0100	0101					Bungalow-1921
CR		272214172806052	1921	130A	N	LAKEVIEW AVE	14	22	27	1728	06	052	R2	0100	0101					Outbuilding-1921
CR		272214103200100	1925	205	N	LAKEVIEW AVE	14	22	27	1032	00	100	R2	0100	0101					Bungalow-1923
CR		272214103200100	1925	205A	N	LAKEVIEW AVE	14	22	27	1032	00	100	R2	0100	0101					Outbuilding-1923
CR		272214172801030	1923	210	N	LAKEVIEW AVE	14	22	27	1728	01	030	R2	0100	0101	0101				Bungalow-1920
CR		272214172801030	1923	210A	N	LAKEVIEW AVE	14	22	27	1728	01	030	R2	0100	0101	0101				Outbuilding-1920
CR		272214172801040	1926	216	N	LAKEVIEW AVE	14	22	27	1728	01	040	R2	0100	0101					Bungalow-1920
CR		272214172801040	1926	216A	N	LAKEVIEW AVE	14	22	27	1728	01	040	R2	0100	0101					Outbuilding-1920
CR		272214172801050	1928	220	N	LAKEVIEW AVE	14	22	27	1728	01	050	R2	0100	0101					Frame Vernacular-1935
CR		272214172801050	1928	220A	N	LAKEVIEW AVE	14	22	27	1728	01	050	R2	0100	0101					Outbuilding-1935
CR		272214103200070	1941	221	N	LAKEVIEW AVE	14	22	27	1032	00	070	R2	0100	0101					Frame Vernacular-1935
CR		272214172802010	1928	228	N	LAKEVIEW AVE	14	22	27	1728	02	010	R2	0100	0101					Bungalow-1920
CR		272214172802010	1928	228A	N	LAKEVIEW AVE	14	22	27	1728	02	010	R2	0100	0101					Outbuilding-1920
CR		272214103200050	1925	229	N	LAKEVIEW AVE	14	22	27	1032	00	050	R2	0100	0101					Bungalow-1925
CR		272214103200050	1925	229A	N	LAKEVIEW AVE	14	22	27	1032	00	050	R2	0100	0101					Outbuilding-1925
CR		272214103200030	1937	235	N	LAKEVIEW AVE	14	22	27	1032	00	030	R2	0100	0101					Tudor Revival-1935
CR		272214172802040	1920	244	N	LAKEVIEW AVE	14	22	27	1728	02	040	R2	0100	0101					Colonial Revival-1916
CR		272214172802040	1920	244A	N	LAKEVIEW AVE	14	22	27	1728	02	040	R2	0100	0101					Outbuilding-1916
CR		272214103200010	1926	247	N	LAKEVIEW AVE	14	22	27	1032	00	010	R2	0100	0101					Bungalow-1923
CR		272214103200010	1926	247A	N	LAKEVIEW AVE	14	22	27	1032	00	010	R2	0100	0101					Outbuilding-1923
CR		272214172806051	1921	112	W	NEWELL ST	14	22	27	1728	06	051	R2	0100	0101					Bungalow-1923
CR		272214172806071	1921	118	W	NEWELL ST	14	22	27	1728	06	071	R2	0100	0101					Bungalow-1920
CR		272214172804091	1920	219	W	NEWELL ST	14	22	27	1728	04	091	R2	0100	0101					Frame Vernacular-1915
CR		272214172804091	1920	219A	W	NEWELL ST	14	22	27	1728	04	091	R2	0100	0101					Outbuilding-1915
CC	CR	272223091600180	1938	271	W	PLANT ST	23	22	27	0916	00	180	R2	7700	7700					Frame Vernacular

Contributing Residential Structures

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CL	RL	PID	YRBLT	STR#	DIR	STREET ADDRESS	S	T	R	SUB	BLK	LOT	Zoning	Land Use	Type 1	Type 2	Type 3	Type 4	Type 5	STYLE
CC		272223288802051	1913	101	S	BOYD ST	23	22	27	2888	02	051	C1	9000	4800	4800				Masonry Vernacular-1913
CC		272214565601300	1918	1	N	MAIN ST	14	22	27	5656	01	300	C1	1100	1100					Masonry Vernacular-1918
CC		272223288801072	1925	15	S	MAIN ST	23	22	27	2888	01	072	C1	1700	1700					Masonry Vernacular-1920
CC		272223288801081	1916	21	S	MAIN ST	23	22	27	2888	01	081	C1	1700	1700	1700				Masonry Vernacular-1922
CC		272223288802071	1920	24 - 28	S	MAIN ST	23	22	27	2888	02	071	C1	1100	1100					1915
CC		272223288801081	1916	31	S	MAIN ST	23	22	27	2888	01	081	C1	1700	1700	1700				Masonry Vernacular-1923
CC		272223288801140	1910	49	S	MAIN ST	23	22	27	2888	01	140	C1	1100	1100					Masonry Vernacular-1912
CC		272223288809022	1915	103	S	MAIN ST	23	22	27	2888	09	022	C1	1100	1100	1700				Masonry Vernacular-1912
CC		272223288808011	1916	110	S	MAIN ST	23	22	27	2888	08	011	C1	1100	1100	1100				Masonry Vernacular-1912
CC		272223288801061	1924	16	E	PLANT ST	23	22	27	2888	01	061	C1	1100	1100					Masonry Vernacular-1924
CC		272223288801052	1925	32-34	E	PLANT ST	23	22	27	2888	01	052	C1	1100	1600					Masonry Vernacular-1925
CC		272214565601311	1922	125	E	PLANT ST	14	22	27	5656	01	311	R2	7100	7100	7100	7100	3400	7200	Classical Revival-1923
CC		272214565600512	1920	1	W	PLANT ST	14	22	27	5656	00	512	C1	1100	1100					Masonry Vernacular-1915
CC		272223288802010	1912	12	W	PLANT ST	23	22	27	2888	02	010	C1	1100	1100					Masonry Vernacular-1912
CC		272223288802032	1927	14	W	PLANT ST	23	22	27	2888	02	032	C1	1100	2100					Masonry Vernacular-1927
CC		272223288802031	1927	18	W	PLANT ST	23	22	27	2888	02	031	C1	1100	1100					Masonry Vernacular-1927
CC		272223288802041	1916	24-28	W	PLANT ST	23	22	27	2888	02	041	C1	1100	1100	1100	4900			Masonry Vernacular-1916
CC		272223288802052	1927	36	W	PLANT ST	23	22	27	2888	02	052	C1	1100	2100	4800				Masonry Vernacular-1912
CC		272223537200050	1912	56-60	W	PLANT ST	23	22	27	5372	00	050	C1	1100	1100					Masonry Vernacular-1920
CC		272214565600540	1926	99	W	PLANT ST	14	22	27	5656	00	540	C1	1100	1100					Masonry Vernacular-1927
CC		272214565600490	1921	101-121	W	PLANT ST	14	22	27	5656	00	490	C1	1100	1100					Masonry Vernacular-1921
CC		272214565600892	1925	125-133	W	PLANT ST	14	22	27	5656	00	892	C1	1100	1100					Masonry Vernacular-1916
CC		272223288803015	1922	126	W	PLANT ST	23	22	27	2888	03	015	C1	1100	1100					Masonry Vernacular-1922
CC		272223288803034	1935	160	W	PLANT ST	23	22	27	2888	03	034	C1	9000						Masonry Vernacular-1935
CC		272223288803035	1935	160	W	PLANT ST	23	22	27	2888	03	035	C1	9000	4800					Masonry Vernacular-1935
CC		272223288803031	1925	162	W	PLANT ST	23	22	27	2888	03	031	C1	4800	4800					Masonry Vernacular-1926
CC	CR	272223091600180	1938	271	W	PLANT ST	23	22	27	0916	00	180	R2	7700	7700					Frame Vernacular

Contributing Commercial Structures

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