

# ORDINANCE 2011-39

AN ORDINANCE OF THE CITY OF OCALA, FLORIDA, CONCERNING HISTORIC PRESERVATION; AMENDING SECTION 94-2 PROVIDING DEFINITIONS; AMENDING SECTION 94-3 PROVIDING FOR ENFORCEMENT AND PENALTY; AMENDING SECTION 94-4 PROVIDING FOR ECONOMIC HARDSHIP; AMENDING SECTION 94-31 PROVIDING FOR AMENDMENTS; AMENDING SECTION 94-52 PROVIDING FOR MEMBERSHIP OF HISTORIC PRESERVATION ADVISORY BOARD, TERM OF MEMBERS, OFFICERS AND MEETINGS; AMENDING SECTION 94-53 PROVIDING DUTIES OF BOARD; AMENDING SECTION 94-54 PROVIDING FOR APPEAL OF DECISIONS OF BOARD; AMENDING SECTION 94-81 PROVIDING FOR NOMINATION AND DESIGNATION OF HISTORIC DISTRICTS AND LOCAL LANDMARKS; AMENDING SECTION 94-82 PROVIDING FOR CERTIFICATES OF APPROPRIATENESS; AMENDING SECTION 94-83 PROVIDING FOR DEMOLITION REQUESTS; ADDING SECTION 94-84 PROVIDING FOR SPECIAL EMERGENCY AND LIFE SAFETY CIRCUMSTANCES; ADDING SECTION 94-85 PROVIDING FOR ANTENNA AND SATELLITE DISHES; ADDING SECTION 94-86 PROVIDING FOR FENCES; AMENDING SECTION 94-101 PROVIDING AFFIRMATIVE MAINTENANCE REQUIREMENTS AND FOR DEMOLITION BY NEGLECT; AMENDING SECTION 94-102 PROVIDING FOR MOVING BUILDINGS OR STRUCTURES; AMENDING SECTION 94-103 PROVIDING FOR NONCONFORMANCES IN HISTORIC DISTRICTS; AMENDING SECTION 94-121 PROVIDING FOR OCALA HISTORIC DISTRICT; AMENDING SECTION 94-122 BY PROVIDING FOR TUSCAWILLA PARK HISTORIC DISTRICT; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Ocala, Florida that Chapter 94, Historic Preservation of the Code of Ordinances, City of Ocala, Florida, is hereby amended as follows:

**Section 1.** That Section 94-2 of the Code of Ordinances, City of Ocala, Florida, is hereby amended to read as follows:

## **Sec. 94-2. Definitions.**

(a) **Definitions.** The following words, terms and phrases, when used in this chapter, shall have the meanings set forth in this section, except where the context clearly indicates a different meaning:

*Adverse impact* means damage, loss or destruction of archaeological artifacts or other data through human activity. This includes damage from land clearing, grading, construction, illegal dumping, vandalism, or digging for artifacts in an unprofessional manner.

*Affirmative maintenance* means continuing ordinary maintenance and repair of a structure or resource, or the land on which it sits, so as to prevent decay or deterioration, and taking such other actions as are necessary to avoid structural deterioration. This includes: the maintenance and repair of paint, glazing of windows and doors, mortar, roofing material and exterior waterproofing system; the removal of debris or of excess plant material; and the maintenance and repair of exterior elements attached to the structure or site such as awnings, shutters, railings, gutters, fences and other such elements that add to the architectural character of the structure or resource.

*Amended Certificate of Appropriateness* means a certificate issued to permit the change of less than a significant portion of the materials or design elements identified in a previously issued certificate of appropriateness.

*Amended Staff Certificate of Appropriateness* means a certificate issued to permit a change of less than a significant portion of the materials or design elements identified in a previously issued staff certificate of appropriateness.

*Antenna* see definition in section 122-1042

***Applicant*** means the record owner of property, or a person holding a contract to purchase such property, who makes application for a nomination or for a certificate of appropriateness under this chapter.

***Archaeological site*** means a location that has yielded or may yield information on history or prehistory. Archaeological sites are evidenced by the presence of artifacts and features below the ground surface indicating the past use of a location by people.

***Archaeological testing*** means subsurface excavation to determine the type and extent of an archaeological site. Archaeological testing is usually done, supervised or reviewed by a professional archaeologist. Subsurface excavation testing techniques may include augering or use of posthole diggers, shovels or heavy equipment. Regardless of the digging tool used, excavated soil containing cultural remains must be screened for artifact recovery through screening material with an opening no larger than one-quarter inch. The location, depth and stratigraphy of each test hole must be recorded. Remote sensing, such as ground-penetrating radar, may be used in conjunction with subsurface testing.

***Artifact*** means an object showing human workmanship or modification.

***Board or OHPAB*** means the Ocala Historic Preservation Advisory Board.

***Building*** means any structure, either temporary or permanent, having a roof, and used or built for the shelter or enclosure of persons, animals, chattels or property of any kind. This definition shall include tents, awnings, cabanas or vehicles situated on private property and serving in any way the function of a building.

***Building envelope*** means everything that separates the interior of a building from the outdoor environment, including the windows, doors, walls, foundation, basement slab, ceiling, roof, and insulation.

***Certificate of Appropriateness (CA)*** means a document evidencing approval of the board for work proposed by an applicant after having met the guidelines and process outlined in section 94-82.

***Certified districts*** means those historic districts certified by the National Park Service Office per requirements of the Economic Recovery Tax Act of 1981 (Public Law 97-34).

***Certified Local Government (CLG)*** means the federal program authorized by the National Historic Preservation Act (16 U.S.C. 470 et seq.), that provides for the participation of local governments in a federal/state/local government preservation partnership. The city has been designated as a Certified Local Government.

***CLG Historic Preservation Officer (CLG-HPO)*** means the city official designated by the city manager to administer the local historic preservation program established under chapter 94 of this code.

***Code enforcement board or CEB*** means the city's municipal code enforcement board.

***Contributing*** means a structure that, by its location, design, materials, workmanship, character and association, contributes to the sense of time and place and historical development of the city. Structures must be at least 50 years old in order to be considered as "contributing" with the exception of those buildings and structures less than 50 years of age that meet the National Register's criteria of exceptional significance. Contributing structures within each of the city's historic districts are designated as such on the official historic preservation map.

***Demolition*** means any act, or failure to act, that destroys in whole or in part a designated historic building or structure or a building or structure in a historic district.

***Demolition by neglect*** describes a situation in which a property owner: (a) performs improper maintenance which does not meet the Secretary of Interior's Standards for Rehabilitation, or is done in such a manner so as not to prevent further deterioration of the structure, or (b) fails to perform affirmative maintenance which allows a historic resource to suffer substantial deterioration and threatens its continued preservation.

***Ecological community, desirable*** means a natural ecosystem that can support humans because of the richness of the soils. In a natural, unaltered state the vegetation itself would be a source of food for humans and would also be a source of food for animals that would be hunted by humans. The rich soils would also be well suited for agriculture. Specific desirable ecological communities found in the city are:

TABLE INSET:

<b>Ecological Community</b>	<b>Soils</b>
<b>Longleaf Pine-Turkey Oak Hills</b>	Apopka sand
	Arredondo sand
	Astatula sand
	Candler sand
	Gainesville loamy sand
	Tavares sand
<b>Mixed Hardwood and Pine</b>	Arredondo sand
<b>Upland Hardwood Hammocks</b>	Adamsville sand
	Apopka sand
	Arredondo sand
	Blitchton sand
	Electra sand
	Fellowship loamy sand
	Fellowship gravelly loamy sand
	Flemington loamy sand
	Gainesville loamy sand
	Hague sand
	Jumper fine sand
	Kendrick loamy sand
	Lochloosa fine sand
	Micanopy fine sand
	Pedro-Arredondo complex
	Sparr fine sand
	Tavares sand
	Wacahoota loamy sand
	Wacahoota gravelly sand
	Zuber loamy sand
<b>Wetland Hardwood Hammocks</b>	Eureka loamy fine sand
	Holopaw sand
	Paisley loamy fine sand
	Pompano sand
<b>Oak Hammocks</b>	Adamsville sand
	Kanapaha fine sand
	Lochloosa fine sand
	Tavares sand
<b>Cypress Swamp</b>	Eureka loamy fine sand, ponded
	Martel sandy clay loam
	Pamlico-Martel association
	Placid sand
	Pompano sand, ponded
<b>Swamp Hardwoods</b>	Anclote sand
	Anclote-Tomoka association
	Bluff sandy clay
	Holopaw sand
	Pamlico-Martel association
	Placid sand Pompano sand, ponded
	Terra Ceia muck

	Tomoka muck
Freshwater Marsh	Anclote-Tomoka association
	Bluff sandy clay
	Holopaw sand
	Okeechobee muck
	Placid sand
	Placid-Pompano-Pomona complex
	Pompano sand, ponded
	Terra Ceia muck
	Tomoka muck
Slough	Anclote sand
	Anclote-Tomoka association
	Placid sand
	Pompano sand

*Exempt maintenance* means any work that would qualify as ordinary maintenance under this section except that the work must repair or restore the structure or part thereof to the identical condition or appearance in which it existed prior to the occurrence of the deterioration, decay or damage being corrected and using essentially identical materials as were previously used. Examples of exempt maintenance include caulking, low pressure washing to remove flaking paint and mildew, replacement of glass window panes with the same type of glass and replacement of door or window screens with the same type of screen material.

*Florida Certified Local Government Guidelines (FCLGG)* means the established procedures for the certification of local governments to participate in the federal-state-local preservation partnership contained in the National Historic Preservation Act, as amended (16 U.S.C. 470 et. Seq.). Established under the Florida Department of State Division of Historic Resources Bureau of Historic Preservation, the FCLGG set forth 1) certain requirements and responsibilities for participation in the Certified Local Government program, and 2) procedures for certification of local governments and for transfer of federal grant funds to participating Certified Local Governments.

*Historic building or historic structure* means those buildings or structures designated as contributing, in either an altered or unaltered state, on the National Register of Historic Places for certified districts and resources, or by the city council in the case of locally designated historic districts and local landmarks.

*Historic character* results from the combination of the character-defining features that have established the appearance of the building as it has evolved over time. Character-defining aspects of the building may include form and detailing of exterior materials, such as masonry, wood, and metal; exterior features such as roofs, porches, and windows; materials, such as plaster and wood; finished and unfinished interior spaces; interior features, such as moldings and stairways, room configuration, and spatial relationships; and structural systems. The elements of setting, such as the scale of building, the relationship of buildings to each other, setbacks, fence patterns, views, driveways and walkways, and street trees together create the character of a district or neighborhood.

*Historic district* means a geographically definable area possessing a significant concentration, linkage or continuity of sites, structures or objects united by past events or aesthetically by plan or physical development. A district may also be comprised of individual elements separated geographically but linked by association or history.

*Historic material* means a building material that is of the same or similar composition as that used during the historically significant time period for which the historic district was designated. The material shall match or have similar texture, pattern, grain, and module size. Historic solid-to-void ratios shall be maintained when possible.

*Historic resource* means any prehistoric or historic district, site, structure, object, or other real or personal property of historical, architectural or archaeological value.

*Landscaping* means natural and cultural resources, or the development of a site which affect the historical character of the property including vegetation, natural features, structures, fences, objects, roads or waterways,

designed, shaped or modified by human activity.

***Locally Designated Historic District*** means any group of resources related to one another in a clearly distinguishable way or any geographically definable area which possesses a significant concentration, linkage or continuity of sites, buildings, structures or objects united historically or aesthetically by plan or physical development. The local historic district must be significant as well as identifiable and it must meet local register criteria and must be designated by city council.

***Local Landmark*** means those districts and individual buildings, structures, objects, or sites, either public or private, within the city which have a particular historic significance to the community and designated as historic by the city council. The resources may or may not be included on the National Register of Historic Places.

***National Register Historic District*** means any group of resources related to one another in a clearly distinguishable way or any geographically definable area which possesses a significant concentration, linkage or continuity of sites, buildings, structures or objects united historically or aesthetically by plan or physical development. The National Register Historic District must be significant as well as identifiable and it must meet National Register Criteria for listing on that Register.

***National Register of Historic Places*** means the national list of districts, sites, buildings, structures, and objects significant in American history, architecture, archaeology, engineering, and culture, maintained by the Secretary of the Interior under authority of Section 101(a)(1)(a) of the National Historic Preservation Act of 1966 as amended.

***Non-permanent structure*** means any tent, shed, stall, collapsible or movable structure which is designed to provide temporary shelter or cover.

***Object*** means a material thing of functional, aesthetic, cultural, historical or scientific value that may be, by nature or design, movable yet related to a specific setting or environment.

***OHPAB Representative*** means the member of the board who is a Registered Florida Architect selected by the board as the designated representative to deal with issues related to certificate of demolition by neglect and certificate of a lack of affirmative maintenance. If more than one such architect sits on the board, the board will select the OHPAB Representative from among them. The OHPAB Representative is designated only for issues related to certificate of demolition by neglect.

***Ordinary maintenance*** means any minor work to a building or structure, for which a building permit is not required by law, where the purpose and effect of such work is to correct any deterioration or decay of or damage to a structure or any part thereof and to restore the structure or part thereof, as nearly as may be practicable, to its condition prior to the occurrence of such deterioration, decay or damage.

***Ordinary re-roofing*** means work to the roof structure of a building where: (1) the shape or dimensions of the roof structure is not changed; (2) the visual appearance of fascia, soffit, rafter ends, cornice, chimneys, and other architectural details associated with the roof structure is not changed; (3) the existing roofing material will be replaced with identical roofing material or the existing roofing material is some type of shingle which will be replaced with shingles that have a similar visual appearance; or (4) the installation of a roof ridge vent which is not visible from public property.

***Preservation*** means the identification, evaluation, recordation, documentation, analysis, recovery, interpretation, curation, acquisition, protection, management, rehabilitation, restoration, stabilization, maintenance, or reconstruction of historic properties.

***Rehabilitation*** means the act or process of returning a property to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions or features of the property which are significant to its historical, architectural and cultural values.

***Resource*** means districts, sites, structures, objects or other real or personal property located in the city.

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

**Satellite dish** means a communication device which is utilized to assist in the viewer’s ability to receive video programming signals from direct broadcast satellites, multichannel multipoint distribution (wireless cable) providers, and television broadcast stations.

**Secretary of the Interior’s Standards** means the current edition of the Secretary of the Interior’s Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, U.S. Department of the Interior, National Park Service, Preservation Assistance Division, Washington, D.C.

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

**Site features** means the site features of a parcel upon which a structure is or is being constructed, including driveways, walkways, lighting, fencing, signs, benches, fountains, wells, terraces, ponds or other water bodies, plants and trees, berms, drainage or irrigation ditches, and archeological features that are important in defining the history of the site. The term also includes the relationship between a historic building or buildings and landscaping features within a property’s boundaries, and helps to define the historic character.

**Stabilization** means the act or process of applying measures designed to reestablish a weather resistant enclosure or the structural stability of an unsafe or deteriorated structure while maintaining the essential form as it exists at present.

**Staff** means those persons employed by the planning department under the supervision of the CLG Historic Preservation Officer.

**Staff Certificate of Appropriateness (SCA)** means a certificate issued by the CLG Historic Preservation Officer or its staff pursuant to section 94-82(c).

**State Historic Preservation Officer (SHPO)** means the official designated pursuant to F.S. §267.031(7) to administer the state historic preservation program established for the purpose of carrying out the provisions of the National Historic Preservation Act of 1966, as amended.

**Structural elements** means those elements of a structure that comprise the framework of the structure. This includes the joist, beams, girders, trusses and any load bearing horizontal or vertical elements. Features of the structural system may be exposed or may be part of the building envelop such as load bearing brick walls, cast iron columns, roof trusses, posts and beams, vigas, or stone foundation walls, and are important in defining the building’s overall historic character.

**Structure** means anything constructed or erected, the use of which requires a permanently affixed location on the ground or attachment to something having fixed location on the ground including, without limitation, buildings, sidewalks, satellite dishes, fences, signs, flagpoles, driveways and benches. The structure includes the structural elements and any attached elements that comprise the building envelope.

**Survey** means the act or process of determining the location and identification of historical and archaeological sites and properties including the determination of the historical significance or values represented by historical and archaeological sites and properties which have been located and otherwise described.

**Uninhabitable** means a structure which does not meet the basic criteria as established for occupancy by the city’s building code.

(b). **Table of Abbreviations.** For ease of reference, the following table is provided for the abbreviations used in this Chapter, including the foregoing definitions.

<u>Abbreviation</u>	<u>Term Abbreviated</u>
CA	Certificate of Appropriateness
CEB	Code enforcement board
CLG	Certified Local Government
CLG-HPO	CLG Historic Preservation Officer

FCLGG	Florida Certified Local Government Guidelines
OHPAB	Ocala Historic Preservation Advisory Board
SCA	Staff Certificate of Appropriateness
SHPO	State Historic Preservation Officer

**Section 2.** That Section 94-3 of the Code of Ordinances, City of Ocala, Florida, is hereby amended to read as follows:

**Sec. 94-3. Enforcement; penalty.**

**(a). Generally.**

(1). When activities specified by section 94-82 are carried out without or in violation of a certificate of appropriateness, the owner of the property involved may be cited by the building official for violation of this chapter and referred to the CEB. Fines identified in this section shall be assessed by the CEB and placed in a fund for use by the board to further the duties assigned them in section 94-53 and to further the preservation of historic resources within the city of Ocala.

(2). Nothing contained in this section shall prevent the city from taking such other action as is necessary to prevent or remedy any violation.

**(b). Procedure.**

(1). It shall be the duty of the code inspector to initiate enforcement proceedings under this section pursuant to the requirements of this chapter.

(2). Except as provided for in subsection (e) of this section, if the code inspector finds that a violation of this chapter has occurred or is shown reasonable evidence to suspect a violation of this chapter, the code inspector shall notify the property owner and give it ten (10) business days to contact the CLG-HPO. Should the violation continue beyond the time specified to contact the CLG-HPO, or should the property owner fail to make reasonable accommodations with the CLG-HPO to address any corrective actions, the suspected violation shall revert to the procedures outlined in Sec 2-441.

**(c). Fines.** Each day such a violation continues shall be considered a separate offense. Upon a finding that a violation has occurred, fines for such violation shall be assessed per occurrence for each day (or portion thereof) during which the violation continues, from the first day of the violation until a CA is obtained through the board or the property is restored to the approved condition. Upon a finding that a violation has occurred, there shall be a minimum fine assessed for each violation equal to the maximum fine for one day of the violation as set forth below.

(1). Work done without the issuance of a certificate of appropriateness shall be assessed fines which shall not exceed the following:

- a). Demolition of a structure - \$2,500/day
- b). New Construction added to the building site - \$500/day
- c). Work associated with the existing building envelope or work which alters the structure so as to include it as a part of the building envelope (e.g. enclosing an open porch) - \$250/day
- d). Work affecting those elements of the structure attached to or touching but not included in the building envelope, e.g. porch railings, exterior stairs - \$150/day
- e). Work affecting other site features not included in the preceding subsections - \$100/day

(2). Variations from any work approved by the board for which a CA was issued may constitute a violation and may result in revocation of the CA and/or a maximum fine of \$500 per occurrence for each day (or portion thereof) during which the violation continues, from the first day until either amendments to the approved certificate are obtained through the board or the work is restored to the approved condition, whichever is greater.

(3). If the CEB finds that a repeat violation of the code has occurred, all fines imposed may be double the

daily rate assessed under this subsection (c).

(4). Upon conviction and in addition to any fines, the CEB may order any such building or structure to be returned to its condition prior to such unlawful erection, construction, reconstruction, exterior alteration, addition or demolition in conformance with the requirements of the locally designated historic district or landmark. This may specifically include ordering the reconstruction of a structure that was demolished to replicate as closely as possible the original structure. Additional fines for failure to comply with such an order may be imposed by the CEB. Furthermore, the city may institute an appropriate action or proceedings to prevent such an unlawful erection, construction, reconstruction, exterior alteration, addition or demolition.

(d). *Failure to timely commence corrective action.* Based on the recommendations of the board, the CEB shall establish a timetable for corrective action of any and all violations.

(e). *Unlawful demolition.* In addition to any other remedies identified in this section as pertains to the partial or complete demolition of any structure in a locally designated historic district or a locally designated landmark, the following shall apply:

(1). No permit will be issued for any structure or structures proposed for the same parcel which would require a footprint larger than the footprint of the demolished structure or structures for a period of three (3) years.

(2). Unauthorized demolition of a portion of a structure shall not serve as justification for a demolition permit whenever it can be shown that restoration or rehabilitation would still be feasible.

(3). No parking lot for vehicles shall be operated whether for remuneration or not on the site for a period of five (5) years from and after the date of such demolition and removal.

(4). The owner of the site shall maintain the site in a clean and orderly state and shall properly maintain all existing trees and landscaping on the site.

(f). Any property owner duly noticed with a notice of violation or notice of hearing shall apply for a certificate of appropriateness upon the earlier of: ten (10) calendar days of its receipt of such notice; or the time of re-inspection. The application fee shall be double the normal amount set forth in section 122-154.

(g). When any remedies or restrictions become applicable to a particular site, the building official shall cause to be filed a verified notice thereof in the public records of Marion County and such restrictions shall then be binding on future owners of the property.

**Section 3.** That Section 94-4 of the Code of Ordinances, City of Ocala, Florida, is hereby amended to read as follows:

**Sec. 94-4. Economic hardship.** Where strict enforcement of the provisions of this chapter would result in an unreasonable or undue economic hardship to the applicant, the board or CEB shall have the power to vary or modify the provisions of this section, including adopted guidelines. The fact that compliance would result in some increase in costs shall not be considered unreasonable or undue economic hardship if the use of the property, if in compliance with this chapter, would be economically viable.

**Section 4.** That Section 94-31 of the Code of Ordinances, City of Ocala, Florida, is hereby amended to read as follows:

**Sec. 94-31. Amendments.**

All amendments to chapter 94 of this code shall be submitted to the State Historic Preservation Officer for review and comment at least thirty (30) calendar days prior to adoption.

**Section 5.** That Section 94-52 of the Code of Ordinances, City of Ocala, Florida, is hereby amended to read as follows:

**Sec. 94-52. Membership; term of members; officers; meetings.**

(a). The board shall consist of nine members to be appointed by city council. Members shall be qualified voters in the city and shall have the professional qualification standards as established under the Florida Certified Local Government Guidelines published by the Florida Department of State. Membership shall include at least one, and to the extent available in the community, preferably two, Registered Florida architects. The balance of the board shall be persons who have demonstrated special interest, experience, or knowledge in history, architecture, or related disciplines and who are members of the following professions or meet the following criteria (to the extent such persons are available):

- (1). Registered real estate brokers.
- (2). Licensed attorneys.
- (3). Registered Florida landscape architects.
- (4). Licensed building contractors or general contractors.
- (5). Urban planning, American studies, American civilization, African American studies, cultural geography or cultural anthropology.
- (6). Persons with a special interest, experience or knowledge in the history of African Americans in Marion County, Florida.
- (7). Residents in an existing or proposed National Register Historic District, interested owners of historic resources, or interested property owners whose land contains an archaeological site.
- (8). Persons belonging to the Historic Ocala Preservation Society or the Marion County Historic Society,

(b). Members shall serve staggered terms of three years. Initially, three members shall be appointed for terms of one year, three members shall be appointed for terms of two years, and three members shall be appointed for terms of three years. Members may be re-appointed to the board for a three-year term upon approval by the city council. There is no limit to the number of consecutive terms that may be served. The board shall elect from its members a chairperson and vice-chairperson, who shall serve terms of one year and be eligible for reelection.

(c). Any vacancies, including expired terms, shall be filled within sixty (60) calendar days by appointment of the city council. An extension of 60 days shall be requested, as needed, in writing from the State Historic Preservation Officer. Any changes to the board membership shall be reported to the SHPO within thirty (30) calendar days of such action.

(d). All board meetings shall be notice advertised and identified as provided in section 122-132. Staff shall provide the SHPO with at least thirty (30) calendar days prior notice of all meetings.

(e). The board shall hold regular monthly meetings. A quorum shall consist of five (5) members. Decisions of the board shall be made by a majority of members present.

(f). All decisions of the board shall be given in a public forum.

(g). Recorded minutes of all board actions including reasons for making decisions shall be transcribed, kept on file and available for public inspection pursuant to F.S. § 286.011.

(h). Within thirty (30) calendar days staff shall submit to the SHPO minutes and attendance figures for both the board and the public for each meeting.

(i) Staff shall submit to the SHPO the following information to be included in an annual report (at a minimum):

- 1) A copy of the Rules of Procedure
- 2) A copy of historic preservation ordinance
- 3) Resume of OHPAB members
- 4) Changes to the OHPAB
- 5) New Local designations
- 6) New National Register listings
- 7) Review of survey and inventory activity with a description of the system used
- 8) Program report on each grant-assisted activity

## 9) Number of projects reviewed

**Section 6.** That Section 94-53 of the Code of Ordinances, City of Ocala, Florida, is hereby amended to read as follows:

**Sec. 94-53. Duties.**

All board responsibilities shall be complementary to and carried out in accordance with the responsibilities of the State Historic Preservation Officer as described in 36 CFR 61.6. It shall be the responsibility of the board to:

- (1) Survey and inventory the historic resources of the city according to accepted practices and to develop and maintain a list of all resources researched for possible historic designation. All inventories shall be considered as public records and shall be available for public inspection per F.S. §119.07, except as provided for in section 304 of the National Historic Preservation Act of 1966, as amended (16 USC 470). A copy of the inventory shall be submitted to the State Historic Preservation Office.
- (2) Make recommendations to the city council for the adoption of ordinances designating resources as historic;
- (3) Review, render a decision and issue certificates of appropriateness pursuant to the provisions of this chapter on all proposed alterations, demolitions, relocations, and new construction within the boundaries designated by the ordinance or which directly affect designated properties;
- (4) Attend pertinent informational or educational meetings, workshops and conferences;
- (5) Advise the city council and other city boards on the effects of city actions on historic resources, both those designated and those with potential for designation, and any other activities that may affect locally designated resources.
- (6) Advise in the development of goals, objectives and policies for historic preservation to be incorporated into the comprehensive plan;
- (7) Make recommendations to the city council on the expenditure of gifts, grants and money as may be received to carry out the purposes of this chapter;
- (8) Advise the various departments of the city as to standards, materials or practices desirable to maintain and enhance the historic resources of the city;
- (9) Adopt policies and procedures necessary for conducting the business of the board. The document shall be made available for public inspection pursuant to F.S. § 119.07;
- (10) Educate affected individuals and the general public on the economic benefits of historic preservation and federal, state and local laws and policies regarding programs that encourage historic preservation;
- (11) Advise individuals as to the architectural and landscape preservation of historic structures, and refer individuals to the Secretary of the Interior's Standards for Rehabilitation, this chapter, and the city's Historic Preservation Design Guidelines; and
- (12) Submit an annual report to the SHPO covering activities of the previous year by the required dates identified in the FCLGG.

**Section 7.** That Section 94-54 of the Code of Ordinances, City of Ocala, Florida, is hereby amended to read as follows:

**Sec. 94-54. Appeal of decisions of board.**

Any affected party aggrieved by any final decision by the board may, within 30 days thereafter, apply to the city council for review of the board's decision by filing with the city manager a written notice requesting the council to review the decision. The notice shall specify the items by which the party is aggrieved. For purposes of this section, a "final decision by the board" shall not include matters that, pursuant to this chapter, are considered by the CEB following consideration by the board.

**Section 8.** That Section 94-81 of the Code of Ordinances, City of Ocala, Florida, is hereby amended to read as follows:

**Sec. 94-81. Nomination and designation of historic districts and local landmarks.**

(a). *Nomination of National Register Historic Districts.* The following is the procedure for nomination of national register historic districts:

(1). *Request for nomination; fee.* A request for nomination of a historic district may be made by the board, provided the board has the concurrence of 66 percent of the voting property owners within the proposed district who respond to the petition. Application for nomination shall be made to the planning department, and shall be accompanied by a fee of \$50.00 to cover the costs of notification and processing of the applications.

(2). *Contents of application; deadline for submission.*

a). Applications for nomination shall include:

- 1). Photographs of the property proposed for nomination.
- 2). A brief statement of historical significance and any available documentation.
- 3). A brief statement of architectural or archaeological significance, including detail photographs if necessary.

b). The deadline for applications for a historic district nomination shall be the day of the regularly scheduled board meeting two (2) months prior to the consideration of the nomination by the board. Applications shall be formally accepted, if complete, at this prior meeting. If the nomination proposal is not technically complete, the board shall notify the proposal's sponsor in writing, identifying the technical deficiencies, within thirty (30) days after receipt of the nomination proposal. If the application is determined to be complete, it shall be placed on the next meeting agenda with respect to the notification process.

(3). *Notice of proposed nomination.* Written notice of proposed nomination shall be given to owners of record of property proposed for designation at least thirty (30) calendar days and not more than seventy-five (75) days prior to any action on such requests and shall be advertised and identified as provided in Section 122-132. Those to be noticed include owners of record of the property, the city council, the Chairman of the Board of County Commissioners of Marion County, and the SHPO.

a). Within thirty (30) calendar days after receipt of the nomination proposal, the CLG-HPO shall submit in writing to the board a recommendation as to whether or not the property shall be nominated to the National Register.

b). Any person or organization that opposes the nomination of an individual property or district to the National Register shall make its views known in a notarized, written statement.

(4). *Hearing; recommendation by board.* The board shall consider all nominations in a public hearing and shall make recommendations for designation to the city council as per the guidelines in subsection (d) of this section.

a). Any person or organization which supports or opposes the nomination of a property to the National Register shall be allowed to speak at the public hearing or by submittal in writing to the board or city staff.

b). Recommendations for designation and any other correspondence shall be accompanied by a report incorporating the submitted documentation and board findings of significance. This report shall contain a description of the details, nature and character specific to the proposed district.

c). City council shall review the recommendations and report at a public hearing and determine whether to designate the proposed district.

d). If city council designates the proposed district, the nomination proposal shall be forwarded,

with a record of official action taken by the board and city council, to the SHPO for processing of the nomination proposal by the Florida National Register Review board within thirty (30) calendar days after the council meeting at which it was considered.

(5). *Appeals.* Any person may appeal the decision of the city council with respect to the nomination of a National Register District. Appeals shall be directed to the SHPO in writing within thirty (30) calendar days of the SHPO's receipt of the written decision of the board. Such appeal shall be conducted pursuant to the procedures set forth in the Florida Certified Local Government Guidelines.

(b). *Nomination and designation of Locally Designated Historic District.* Any nominated historic district which has met the conditions of section 94-81(a) and has been placed on the National Register of Historic Places, can then be considered for nomination as a locally designated historic district. An area which has been identified as significant to the local history but which does not meet the standards of the National Register of Historic Places may also be nominated as a locally designated historic district.

(1). *Request for nomination; fee.* A request for nomination of a local historic district may be made by the board, provided the board has the concurrence of sixty-six percent (66%) of the voting property owners within the proposed district who respond to the petition. Application for nomination shall be made to the planning department, and shall be accompanied by a fee of \$50.00 to cover the costs of notification and processing of the applications.

(2). *Contents of application; deadline for submission.*

a). Applications for nomination shall include:

- 1). If available, the letter of designation as being listed on the National Register of Historic Places received from the Secretary of the Department of the Interior.
- 2). Photographs of the property proposed for nomination.
- 3). A brief statement of historical significance and any available documentation.
- 4). A brief statement of architectural or archaeological significance, including detail photographs if necessary.

b). The deadline for applications for a locally designated historic district nomination shall be six weeks prior to the consideration of the nomination by the board.

(3). *Hearing; recommendation by board.* The board shall consider all nominations in a public hearing and shall make recommendations for designation, per the guidelines in subsection (d) of this section, to the city council. Recommendations for designation shall be accompanied by a report incorporating submitted documentation and board findings of significance. This report shall contain a description of the details, nature and character specific to the proposed site. City council will consider the recommendation and report at a public hearing, and determine whether to designate the proposed site.

(c). *Nomination and designation of local landmarks.* The following is the procedure for nomination of individual historic resources as a landmark. The nominated historic resource may or may not be listed on the National Register of Historic Places.

(1). In addition to the structures already identified as within the historic district, the board shall consider for landmark designation any additional buildings, structures, objects, sites, and districts within the city which merit landmark designation and protection, possessing integrity of location, design, setting, materials, workmanship of association and being:

- a). Of particular historic significance by exemplifying the broad cultural, political, economic, or social history of the nation, state, or community;
- b). Associated with historic personages important in national, state, or local history;
- c). The site of an historic event which had a significant effect on the development of the nation, state, or community;

- d). An embodiment of the distinctive characteristics of a type, period, or method of architecture or engineering;
- e). Representative of the work of an important builder, designer, artist or architect whose individual ability has been recognized or who influenced his age;
- f). Significant for containing elements of design, detail, materials, or craftsmanship which represent a significant innovation; or
- g). Able or likely to yield information important in prehistory or history.

(2). *Request for nomination.* Request for nomination of individual historic resources may be made by the board or any interested individual. Application for nomination shall be made to the planning department, and shall be accompanied by a fee of \$50.00 to cover the costs of notification and processing of the applications.

(3). *Contents of application; deadline for submission.*

a). Applications for nomination shall be in writing and include:

- 1). Photographs of the property proposed for nomination.
- 2). A brief statement of historical significance and any available documentation.
- 3). A brief statement of architectural or archaeological significance, including detail photographs, if necessary.
- 4). A statement of support and approval of the nomination shall be obtained from the property owner of record.

b). The deadline for applications for local landmark nomination shall be six weeks prior to the consideration of the nomination by the board. Applications shall be formally accepted, if complete, at this prior meeting.

(4). *Hearing; recommendation by board.* The board shall consider all nominations in a public hearing and shall make recommendations for designation, per the guidelines in subsection (c)(1) or (d) of this section, to the city council. Recommendations for designation shall be accompanied by a report incorporating submitted documentation and the board's findings of significance. This report shall contain a description of the details, nature and character specific to the proposed site. City council will consider the recommendation and report at a public hearing and determine whether to designate the proposed site as a local landmark.

(d). *Guidelines for recommendations.* Locally designated historic districts and local landmarks may be designated by ordinance upon recommendation by the board, which shall use the following criteria as general guidelines for making such recommendations: districts, sites, buildings, structures and objects that possess integrity of location, design, setting, material, workmanship, feeling and association, and that:

- (1). Are associated with events that have made a significant contribution to the broad patterns of the city's history;
- (2). Are associated with the lives of persons significant in the city's past;
- (3). Embody the distinctive characteristics of a type, period or method of construction, or that represent a significant and distinguishable entity whose components may lack individual distinction;
- (4). Have yielded or may yield information important in prehistory or history; or
- (5). Constitute a unique density of architecture, scale, landscaping and planning.

(e). *Designation procedure; notice of designation.* The following is the procedure for designation of historic districts and individual historic resources:

- (1). Resources recommended for designation by the board shall be presented to the city council in ordinance form for introduction within fourteen (14) calendar days from recommendation.

(2). Notice of designation shall be sent to all owners of property so designated within fourteen (14) calendar days of final city council action. Updated lists of designated properties shall be kept by the city clerk's office and the CLG-HPO, and shall be noted on the official historic preservation map. Notification of all new historic designations or alterations to existing designations shall be sent to the SHPO within thirty (30) calendar days of designation.

(f). *Effect of designation.* Upon designation of a local historic district or local landmark by the city council, the following procedures and standards shall apply:

(1). All proposed actions, public and private, affecting designated properties requiring certificates of appropriateness shall be referred to the board for consideration.

(2). All requests before the planning and zoning commission, and the board of adjustment affecting designated properties, shall simultaneously be forwarded to the board for its recommendation. Where possible, the board shall be allowed to meet and make a recommendation prior to the date of the scheduled meeting of the planning and zoning commission or board of adjustment. Any failure to comply with the requirements of this subsection shall not affect the validity of any action taken by the planning and zoning commission or by the board of adjustment.

(g). *Official map.*

(1). There shall be an official historic preservation map upon which all designated districts and local landmarks shall be shown. The official historic preservation map shall be identified by the signature of the president of the city council, attested by the city clerk, and bear the seal of the city under the following words: "This is to certify that this is the Official Historic Preservation Map of the City of Ocala, Florida, adopted by \_\_\_\_\_," together with the date of the adoption of this chapter. No changes of any nature shall be made on the official historic preservation map or matter shown thereon except in conformity with the procedures set forth in this chapter. Regardless of the existence of purported copies of the official historic preservation map which may from time to time be made or published, the official historic preservation map, which shall be located in the office of the CLG-HPO, shall be the final authority as to the historic designation status of lands, buildings and other resources in the city.

(2). If the official historic preservation map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the city council may by resolution adopt a new official historic preservation map, which shall supersede the prior official historic preservation map. The new official historic preservation map may correct drafting or other errors or omissions in the prior official historic preservation map, but no such correction shall have the effect of amending this chapter. The new official historic preservation map shall be identified by the signature of the president of the city council and attested by the city clerk, and bear the seal of the city under the following words: "This is to certify that this Official Historic Preservation Map supersedes and replaces the Official Historic Preservation Map adopted (date of adoption of map being replaced) by Ordinance No. \_\_\_\_\_ of the City of Ocala, Florida," together with the date of the resolution adopting the new official historic preservation map.

**Section 9.** That Section 94-82 of the Code of Ordinances, City of Ocala, Florida, is hereby amended to read as follows:

**Sec. 94-82. Certificates of appropriateness.**

(a). *Activities requiring a certificate issued by the board.* A certificate of appropriateness issued by the board shall be required for any of the following activities on properties within locally designated historic districts and other designated local landmarks as specified in Sec 94-81:

(1). Any material change in the exterior appearance of existing buildings or structures, including re-roofing and re-siding, but excluding paint.

(2). Demolition or partial demolition of any building or structure.

(3). The movement of any building or structure into, from or within historic districts and sites.

- (4). Any new construction.
- (5). Alteration of an archaeological site.

**(b). Certificate issued by staff; ordinary maintenance and repair.** A staff certificate of appropriateness (SCA) shall be required for ordinary re-roofing and ordinary maintenance (except exempt maintenance) and repair of any exterior elements of any building or structure. SCAs shall be issued if the planning department determines that such re-roofing, maintenance or repair uses like materials of a similar visual character which will not diminish, eliminate, adversely affect or otherwise have a detrimental effect on the historic character of the resource. Sandblasting and other cleaning methods that will damage the historic building materials are not considered ordinary maintenance and shall not be undertaken without a CA (although as set forth in subsection (g) below, CAs are not available for most sandblasting). No certificate of appropriateness shall be required for exempt maintenance but the person proposing to perform same is encouraged to contact the planning department staff to confirm that the work qualifies as exempt maintenance.

**(c). Other permits and approvals.** A certificate of appropriateness shall be a prerequisite to the issuance of any other permits or approvals required by law. The issuance of a certificate of appropriateness shall not relieve the applicant from obtaining other permits or approvals required by the city. A building permit or other municipal permit shall be invalid if it is obtained without a certificate of appropriateness required for the proposed work.

**(d). Preliminary conference.** Prospective applicants for certificates of appropriateness shall confer with staff, on the nature and purpose of the proposed action. The prospective applicant shall at this time be advised of the plans, photographs, statements or other exhibits necessary for such application. The board may require additional information, if necessary, to make its rulings. Prospective applicants may also request a conference with the board directly, in order to clarify application requirements and the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings; such preliminary conference shall be discussed under New Business at a regularly scheduled board meeting.

**(e). Application.** Application for a certificate of appropriateness shall be made to the board through the planning department. Applications are due three (3) weeks prior to the next regularly scheduled board meeting. Application fees are applicable as defined in Sec 122-154. Applications shall include all documents and exhibits necessary for consideration of the application as determined by staff, including without limitation:

- (1). Building plans for structural changes, drawn to scale;
- (2). Description of finish materials (samples may be requested of nonstandard materials);
- (3). Site plans drawn to scale, including landscape plans where applicable; or
- (4). Other documentation of architectural compatibility (including old photographs or drawings) as offered by the applicant.
- (5). The planning department shall notify the applicant of any additional information required. No application shall be deemed to be filed until all required documentation and other materials are received by the planning department.

**(f). Action by the board.** On any application for a certificate of appropriateness for any activity listed in subsections (a)(1), (a)(3), (a)(4) and (a)(5) of this section, the board shall approve, modify or deny the application, in whole or part, or suspend action up to 30 days for further research or for revision of site plans as necessary. Applications for certificates of appropriateness for demolitions are considered under section 94-83.

**(g). Criteria for decisions.** The board may issue a certificate of appropriateness for the reconstruction, alteration, new construction, non-permanent structures, demolition, partial demolition, or removal of any building or structure within a locally designated historic district or any designated local landmark, or any other activity for which a CA is required, if such action is not deemed contrary to the purposes of historic preservation and to the special character of districts, sites and resources as designated specifically. The board's decisions will be based on the Secretary of the Interior's Standards, the city's Historic Preservation Design Guidelines, this chapter, and the following criteria:

- (1). Exterior alterations shall not diminish the architectural quality or historical character of the building or the building site.

- (2). Sandblasting of any materials except for iron is prohibited.
- (3). Only through very controlled conditions can most historic building material be abrasively cleaned of soil or paint without measurable damage to the surface or profile of the substrate. Decisions regarding the proper cleaning process for historic structures can be made only after careful analysis of the building fabric, and testing. Generally, wet abrasive cleaning of a historic structure should be conducted within the range of 20 to 100 psi at a range of 3 to 12 inches.
- (4). Landscaping, signs, parking and site development should be sensitive to the individual building and should be visually compatible with the buildings and environment with which they are visually related.
- (5). New construction shall be visually compatible with the buildings and environment with which the new construction is visually related. When an application involves new construction, the applicant may present conceptual plans to the board for review and comment before the application for a certificate of appropriateness is submitted and before construction drawings of the project are prepared. Aspects to be considered include:
  - a). The height, volume, proportion between width and height of the facades, the proportions and relationship between doors and windows, the rhythm of solids and voids created by openings in the facades, the materials used in the facades, the texture inherent in the facades, the colors, pattern and trim used in the facades, and the design of the roof.
  - b). The existing rhythm created by existing building masses and spaces between them should be preserved.
  - c). Landscape plans should be visually compatible with the buildings and environment with which the landscaping is visually related.
  - d). Proportions of existing facades which are visually related shall be maintained when neighboring buildings have a dominant horizontal or vertical expression, that expression should be carried over in the new facade.
  - e). Architectural details should be incorporated as necessary to relate the new with the old and to preserve and enhance the inherent architectural characteristics of the area.
  - f). Accessory structures shall be compatible with the scale, shape, roof form, materials, and detailing of the main structure to protect the historic integrity of the neighborhood. The accessory structure shall not exceed the maximum height allowed by the applicable zoning or the height of the existing primary structure.
- (h). *Restrictions on decisions.* The board shall not consider interior arrangement or interior design in association with or relative to approving a certificate of appropriateness.
- (i). *Issuance of the certificate of appropriateness.* The board shall issue its determination in writing to the owner within fourteen (14) calendar days of the board hearing at which a decision on which the application was made.
  - (1). Any modifications to the application shall be noted along with the responsibilities of the owner as outlined in the ordinance.
  - (2). If a significant amount of changes are made to the submitted CA during the approval process by the board, the applicant may be required, at the board's discretion, to submit a new set of plans to the board or staff for final approval.
  - (3). A original stamped copy of the approved plans shall be given to the owner/applicant. Such drawings shall be submitted to the building department along with any construction drawings for the issuance of any and all permits.
- (j). Work as approved must commence within six (6) months from the issuance of a certificate of appropriateness (CA) or a staff certificate of appropriateness (SCA), and must be completed within one (1) year of such issuance, unless the CA provides longer time periods to commence or complete the work. If work has not commenced within the

six (6) month period, the CA or SCA shall become invalid unless an extension is granted by staff.

(k). The owner/applicant must make continuous progress toward completion of work and the applicant shall not suspend or abandon the work for a period in excess of 180 days. Any suspension of work in excess of 180 days will invalidate the certificate of appropriateness in effect.

(l). Any certificate of appropriateness can be revoked if it is found to have been issued on the basis of incorrect information, if it is in violation of regulations, or if it is in violation of development or building codes.

(m). A CA or SCA can be amended via the same process as the original application. There is no filing fee for the amendment process. The addition of new design elements, structures, or landscape features will require the issuance of a new CA.

(n). The board will consider a resubmission of the same CA request within ninety (90) days of it being denied only if it has been significantly modified or new information is made available that was not presented when the CA was denied.

(o). The building official shall assist the board by making necessary inspections in connection with enforcement of this article and the inspector shall be empowered to issue a stop work order if performance is not in accordance with the issued CA. The stop work order shall initially only stop work not in compliance with the CA. If the violation is not corrected within sixty (60) days of the issuance of the initial stop work order, however, the inspector is empowered to issue a further stop work order for the stoppage of all work authorized by the CA. Any stop work order shall not stop work necessary to correct the violation. Copies of any stop work orders shall be furnished to both the applicant and the board through the CLG-HPO. The building official, with the assistance of the planning department, shall be responsible for ensuring that any work not in accordance with an issued CA shall be corrected to comply with the CA prior to withdrawing the stop work order.

**Section 10.** That Section 94-83 of the Code of Ordinances, City of Ocala, Florida, is hereby amended to read as follows:

**Sec. 94-83. Demolition requests.**

(a). On applications to demolish any buildings or structures within locally designated historic districts, or local landmarks, the board will approve or deny the request, or may suspend action to allow further study for a period not to exceed ninety (90) calendar days; a suspension of action does not constitute a final decision by the board. A motion to deny such applications shall include the designation of a public notification of demolition period up to a maximum of 365 days. The length of the delay shall be determined by the board based upon the relative significance of the structure and the probable time required to arrange a possible alternative to demolition. Upon expiration of the public notification of demolition period set forth in an approved motion to deny an application, the applicant may demolish the building or structure without board approval.

(b). During the public notification period, the board may take such steps as it deems necessary to preserve the building or structure concerned, in accordance with the purposes of this chapter. Such steps may include but shall not be limited to consultation with civic groups, public agencies and interested citizens, recommendations for acquisition of property by public or private bodies or agencies, and exploration of the possibility of moving the structure or building.

(c). In connection with any certificate of appropriateness for demolition, the board may request permission from the owner to salvage and preserve building materials, architectural details and ornaments, fixtures and the like for reuse in restoration of other historic properties. The board may also request from the owner permission to enter the building to record the dimensions and details before demolition. This record will include photographs and scaled architectural drawings.

(d). In addition to all other provisions of this chapter, the board shall consider the following criteria in evaluating applications for a certificate of appropriateness for demolition of designated properties in determining the length of the public notification of demolition period:

- (1). The structure is of such interest or quality that it would reasonably meet national, state or local criteria

for designation as a historic resource.

- (2). The significance which the structure contributes to the historic character of a designated district.
- (e). The board may request one or more of the following items of written evidence to be submitted:
- (1). A report from a professional property appraiser stating that such building will not earn a reasonable economic return for the owner of such building on the original site.
  - (2). A report from a licensed engineer or architect with experience in rehabilitation as to the structural soundness of the structure and its suitability for rehabilitation.
  - (3). Estimated market value of the property both in its current condition, and after completion of the proposed demolition or removal, to be presented through an appraisal by a qualified professional expert.
  - (4). An estimate from an architect, developer, real estate consultant, appraiser or other real estate professional experienced in rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing structure on the property.
- (f). The board may consider development plans for a site when considering applications for certificates of appropriateness for demolition. The board may suspend action until a conceptual development plan is approved by the board.

**Section 11.** That of the Code of Ordinances, City of Ocala, Florida, is hereby amended by adding a section to be numbered 94-84 which shall read as follows:

**Sec. 94-84. Special emergency and life safety circumstances.**

- (a). None of the provisions of this chapter shall be construed to prevent any action of construction, alteration, or demolition necessary to correct or abate the unsafe or dangerous condition of any historic resource, or part thereof, where such condition has been declared unsafe or dangerous by the city building official or the fire department and where the proposed actions have been declared necessary by such authorities to correct the said condition; provided, however, that only such work as is necessary to correct or remedy the unsafe or dangerous condition may be performed pursuant to this section.
- (b). In the event any historic resource located within a locally designated historic district or a local landmark shall be damaged by fire or other calamity to such an extent that it cannot be repaired and restored, it may be removed in conformity with normal permit procedures and applicable laws, provided that:
- (1). The city building official concurs with the property owner that the resource cannot be repaired and restored and so notifies the CLG-HPO. Notification to the CLG-HPO shall consist of a report from a building code inspector describing the dangerous conditions, and any other documentation that the CLG-HPO shall require in order to prepare a report, oral or written, to present to the board.
  - (2). If emergency circumstances affect a designated historic building, resource, or site within a historic district in a way that requires immediate relief, repair or demolition, the building official shall certify that such conditions exist and said conditions shall be eliminated as quickly as practicable. Emergencies are defined as life or health-threatening conditions requiring immediate attention.
  - (3). In a non-emergency circumstance, where the building official shall require exterior alterations in an existing use to conform to life safety or other codes, a certificate of appropriateness shall be required. In the event that irreconcilable conflicts arise between such codes and this chapter, the board must grant permission to conform to those codes even if a certificate of appropriateness would not ordinarily be issued.
  - (4). In the event that a structure becomes damaged by an act of God, and the building official determines it to be a public safety hazard or is in danger of suffering additional damage the owner may make temporarily repairs to protect the structure but not permanently alter architectural features. A certificate of appropriateness

shall be applied for at a later date to facilitate permanent repairs that are in compliance with this section.

(c). In the event the building official determines that any structure within a designated historic district or an individually designated building or site is unsafe pursuant to the Florida Building Code, as adopted by the city, such official shall immediately notify the board through the planning department with a copy of the findings. Where reasonably feasible, within applicable laws and regulations, the building official shall endeavor to encourage repair of the structure rather than its demolition and shall take into consideration any comments and recommendations by the board. The board may take appropriate action to encourage preservation of any such structure.

**Section 12.** That of the Code of Ordinances, City of Ocala, Florida, is hereby amended by adding a section to be numbered 94-85 which shall read as follows:

**Sec. 94-85. Antenna and satellite dishes.**

(a). It is the intent of this section to be consistent with the Federal Communication Commission regulations (the "FCC Rule") issued under the Telecommunications Act of 1996 (as revised).

(b). This section applies to the following types of video antennas:

(1). A satellite dish that is one meter (39.37") or less in diameter and is designed to receive direct broadcast satellite service, including direct-to-home satellite service, or to receive or transmit fixed wireless signals via satellite.

(2). An antenna that is one meter or less in diameter or diagonal measurement and is designed to receive video programming services via multichannel multipoint distribution (wireless cable), or to receive or transmit fixed wireless signals other than via satellite.

(3). An antenna that is designed to receive local television broadcast signal. Masts higher than 12 feet above the roofline may be subject to other local permitting requirements.

(c). Antennas and satellite dishes shall be installed in the least obtrusive fashion possible without physically and visually disturbing the character of historic properties and its surroundings. The aforementioned devices shall be placed in an inconspicuous location from the public right-of-way when possible and should not damage or obscure character defining features. Any proposal for the installation of antennas or satellite dishes in the locally designated historic districts or at a local landmark shall meet the following applicable conditions:

(1). Placement of an antenna or satellite dish does not require review for a certificate of appropriateness when located unobtrusively on the building site. The antenna or dish shall be located at the rear of the main building or structure (either on the rear walls or the rear slopes of the roof). Significant architectural details shall not be removed, damaged or covered by such installation. The owner of the property, or party installing the antenna or satellite dish, may obtain a written ruling from the planning department that no certificate of appropriateness is required under this section.

(2). Placement of an antenna or satellite dish does require review for a certificate of appropriateness when located on the main building, other structures on site, a roof, or placed in the yard and is visible from the public right-of-way. No historic trim or material on the main building should be removed or damaged by the installation. If it is necessary to affix such a device to the roof, it should be located on the fascia, the chimney, the rear roof, or behind a gable on the roof so as to be less obtrusive.

(3). Where a certificate of appropriateness is required, the applicant must submit for review the design and location of the installation and screening material, where necessary. Appropriate screening materials include vegetative coverings, lattice, fencing or other compatible material. The screen is to be harmonious with the building's design.

(4). The installation of devices in front yards will only be considered if a hardship is presented and documented by the certified installer.

(d). No satellite dishes other than those described in subsection (b) above are permitted in a locally designated historic district or at a local landmark.

(e) Notwithstanding the provisions of this section, any requirement hereof that, in application, violates the FCC Rule, shall not apply.

**Section 13.** That of the Code of Ordinances, City of Ocala, Florida, is hereby amended by adding a section to be numbered 94-86 which shall read as follows:

**Sec. 94-86. Fences.**

(a). **Generally.** All fences located within a locally designated historic district shall follow the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings. Any newly constructed or replacement fence shall require a certificate of appropriateness.

(b). **Materials.** New fences should complement the style, design, color and material of the building(s), the building site and the surrounding neighborhood. A single lot shall contain no more than two types of fencing material. Decorative fences made of cast iron, wrought iron, simulated wrought iron, wood pickets or other historic materials are appropriate for front yards. Privacy wood fences are appropriate for rear and side yards. Fencing material shall be appropriate to the historic time period of the locally designated historic district or local landmark. Other materials may be approved on a case-by-case basis. the board may consider alternative materials. Repairing fencing is preferred over replacement. Deteriorated sections of historic fencing should be replaced with materials of matching design, texture and color whenever possible.

(c). **Height.** Decorative fences along street fronts shall allow views of the yard and building. Fence height for front yards and side yards up to the front façade is no higher than four (4) feet and for side and rear yards at six (6) feet. On corner lots, the maximum heights are four (4) feet for street elevations and six (6) feet for side and rear yards. Other heights for side and rear yards may be approved on a case by case basis if consistent with the standards.

(d). **Placement.** New fences should be compatible with the site in façade setback, size and scale to protect the historic integrity of the neighborhood. Privacy fencing for the rear and side yards should be placed behind the front façade of the historic building. Placement should be such that it does not damage or endanger any existing tree on the building site.

**Section 14.** That Section 94-101 of the Code of Ordinances, City of Ocala, Florida, is hereby amended to read as follows:

**Sec. 94-101. Affirmative maintenance requirements; demolition by neglect.**

(a). **Intent.** It is the intent of this section to preserve from deliberate or inadvertent neglect the exterior features of structures located within locally designated historic districts or to individually designated historic resources, and the interior portions thereof when such maintenance is necessary to prevent deterioration and decay of the exterior. This includes the deterioration of any exterior appurtenance or architectural feature so as to produce or tend to produce, a detrimental effect upon the character of the district as a whole or the life and character of the landmark, structure or property. It is the further intent of this section to allow the board to work with the property owner to encourage maintenance and stabilization of the structures before any enforcement action is taken.

(b). **Affirmative Maintenance.**

(1). Every owner of a property within a designated historic district or of a local landmark shall keep in good repair and shall properly maintain:

a). All of the exterior portions of such building or structure; and

b). The building site including landscaping features within a property's boundaries which help to define historic character. These features include, to the extent they exist on a property, driveways, walkways, lighting, fencing, walls, signs, benches, fountains, wells, terraces, trees and other plants, berms, drainage or irrigation ditches, and archeological features that are important in defining the history of the site.

(2). In addition, where the historic resource is an archaeological site, the owner shall be required to maintain his property in such a manner as not to adversely affect the archaeological integrity of the site.

(c). Demolition by Neglect.

(1). It is the intent of this subsection to preserve deliberate or inadvertent neglect the exterior features of structures designated as contributing or significant, as well as interior portions thereof which, if not so maintained, may cause such structure to deteriorate or to become damaged or otherwise fall into a state of disrepair.

(2). No owner of a property within a designated historic district or of a local landmark shall cause or permit the property to suffer demolition by neglect as defined in section 94-2 or consistent with the requirements of this subsection.

(d). Criteria. In the absence of an interior inspection or a structural engineer's report as to any structural degradation, the board or CEB may find lack of affirmative maintenance or demolition by neglect upon one or more of the following criteria:

(1). Deteriorated or inadequate foundations;

(2). Defective or deteriorated flooring or floor supports of insufficient size to carry imposed loads with safety;

(3). Members of walls or other vertical supports that split, lean, list, or buckle due to defective material, workmanship, or deterioration;

(4). Members of walls or other vertical supports that are insufficient to carry imposed loads with safety;

(5). Members of ceilings, roofs and their support system, or other horizontal members which sag, split or buckle due to defective material, workmanship or deterioration;

(6). Members of ceiling and roof supports or other horizontal members that are insufficient to carry imposed loads with safety;

(7). Fireplaces or chimneys which list, bulge, or settle due to defective material, workmanship, or deterioration;

(8). Deterioration or defects in paints, coating systems, flashing, or other ineffective waterproofing of exterior walls, roof and foundations, including windows and doors that may result in destructive moisture penetration or other forms of rot and decay;

(9). Any fault, defect, or condition in the building which renders the same structurally unsafe or not properly watertight;

(10). The deterioration or crumbling of exterior plasters, mortars, brick, stone or wood siding;

(11). The deterioration of any feature so as to create or permit the creation of any hazardous or unsafe condition or conditions as determined by the building official;

(12). Deterioration of a historic building or other historic resource to the extent that it creates or permits the creation of a hazardous or unsafe condition or conditions as determined by the building official; and

(13). Deterioration or removal of any unique architectural feature which would detract from the original architectural style;

(14). Any structure that has become uninhabitable shall be presumed to be suffering from demolition by neglect.

(e). Procedure.

(1). Upon an oral or written complaint (which may be made by a member of the public, the board, or city staff) that the property within a locally designated historic district, or a local landmark, is being demolished by neglect or is not being affirmatively maintained, the CLG-HPO shall investigate the complaint. If the complaint is found to be valid, the CLG-HPO shall instruct the property owner to contact the CLG-HPO within a reasonable amount of time to arrange a meeting to discuss the property. During this first meeting with

the property owner or his agent, or if the property owner does not arrange for or attend a meeting, the designated OHPAB Representative and the CLG-HPO shall inspect the property and recommend any necessary repairs. If necessary, the CLG-HPO shall obtain an inspection warrant pursuant to applicable law. The OHPAB Representative shall prepare a report to the full board on the condition, repairs needed to maintain and stabilize the structure, any resources available for repairs, and a reasonable time frame needed for the repairs. If the condition of the property is such that the representative or another member of the board does not have the expertise to properly evaluate the historic resource, the board shall seek the opinion of a professional with the required expertise.

(2). At the next regularly scheduled board meeting, the full board shall discuss the findings of the designated representative. Determinations shall be based on the criteria found in subsection (c) of this section. If the findings so indicate, the board shall make a preliminary finding of demolition by neglect, a lack of affirmative maintenance, or no violation, and shall forward its determination along with specific actions to be taken with reasonable particularity, timeframes and a deadline for completion of repairs necessary to preserve or repair structures or other resources, to the CEB for recommendation that the structure shall be declared a nuisance and that a certification of demolition by neglect (CDN) be issued. If the owner does not comply with the board's determination and direction, the CLG-HPO shall notify the building official who shall then forward the matter to the CEB pursuant to the procedures in section 2-441 of the city code except that no notice of violation or time to correct the violation shall be issued; rather the matter shall be considered by the CEB and notice to the owner provided.

(3). The CEB shall review the board's findings and, unless it finds that the board had no substantial justification for requiring action to be taken or that the measures required for time periods specified were not reasonable under all of the circumstances, the CEB shall enter its order finding demolition by neglect or a lack of affirmative maintenance, and order appropriate corrective action.

(4). The property owner shall be duly notified of the findings of the CEB. A list of necessary actions and timeframes shall be included with the notification to the owner. Repairs must be started within thirty (30) calendar days. The provisions of Sec 2-443 through 2-445 shall apply concerning CEB's order.

(f). The taking of an appeal to a court shall not operate to stay any order of the CEB unless the CEB or court expressly stay such an order. The city may seek preliminary and permanent relief in any court of competent jurisdiction to enforce any order.

(g). This section shall not be construed to alleviate the requirements for a certificate of appropriateness as provided in this chapter.

**Section 15.** That Section 94-102 of the Code of Ordinances, City of Ocala, Florida, is hereby amended to read as follows:

**Sec. 94-102. Moving buildings or structures.**

When an applicant seeks to obtain a certificate of appropriateness for moving a building or structure into, from or within a historic district, the board shall consider the following:

- (1) The historic character and aesthetic interest the building or structure contributes to its present setting.
- (2) Plans for the site if the structure is removed, including landscaping.
- (3) In addition, historic buildings to be relocated to a site within a designated historic district shall be of a compatible size, scale and design to the properties adjacent to the proposed site.

**Section 16.** That Section 94-103 of the Code of Ordinances, City of Ocala, Florida, is hereby amended to read as follows:

**Sec. 94-103. Nonconformances in historic districts.**

(a). Definitions. As used in this section, the following terms have the following meanings:

- (1). *Pre-2003 nonconformance.* A nonconformance that existed prior to the effective date of Ordinances 5213 and 5214 changing the designated land use, under the city's comprehensive plan, of certain properties in the historic district to the low density residential classification.
- (2). *Post-2003 nonconformance.* A nonconformance that exists prior to the effective date of Ordinances 5213 and 5214 changing the designated land use, under the city's comprehensive plan, of certain properties in the historic district to the low density residential classification.
- (b). The provisions of this section shall govern post-2003 nonconformances in a designated historic district.
- (c). The provisions of article III of chapter 122 shall govern:
- (1). Pre-2003 nonconformances in a designated historic district; and
  - (2). Post-2003 nonconformances in a designated historic district except as set forth herein.
- (d). Subsections 122-175(6) and sections 122-177 and 122-178 shall not apply to post-2003 nonconforming uses or structures in designated historic districts. Therefore, by way of illustration and not limitation, if a post-2003 nonconforming use or structure is destroyed by casualty, it may be rebuilt, reconstructed or repaired to the same density and building size as it had before the casualty. Any such rebuilding, reconstruction or repairs would remain subject to the provisions of section 94-82.
- (e). Repairs, maintenance and improvements to a post-2003 nonconforming use or structure, other than those necessitated by casualty (which are governed by subsection (d) above), may be carried out in any one year in an amount not to exceed 50 percent of the assessed value of the structure for that year, and provided that such work does not increase the cubical content of the building or the floor area devoted to the nonconforming use, or increase the number of dwelling units. Nothing in this section shall prevent compliance with applicable laws or resolutions relative to the safety and sanitation of a building occupied by a nonconforming use.

**Section 17.** That Section 94-121 of the Code of Ordinances, City of Ocala, Florida, is hereby amended to read as follows:

**Sec. 94-121. Ocala Historic District.**

- (a). The city council hereby creates the Ocala Historic District, and the land area described in this section shall be known and cited as such. The Ocala Historic District is that land area indicated in the map and described in the verbal boundary description attached to Ordinance No. 1722 as exhibit A\*.
- (b). The individual contributing structures included in the Ocala Historic District are those structures identified as contributing in the Ocala Historic District Master Site File Inventory as provided to the U.S. Secretary of the Department of the Interior and which are listed on the National Register of Historic Places.

**Editor's note:** \* Exhibit A is not included herein but is available for public inspection in the office of the city clerk or in the planning department.

**Section 18.** That Section 94-122 of the Code of Ordinances, City of Ocala, Florida, is hereby amended to read as follows:

**Sec. 94-122. Tusawilla Park Historic District.**

- (a). The city council hereby creates the Tusawilla Park Historic District, and the land area described in section (b) of this section shall be known and cited as such. The Tusawilla Park Historic District is that land area indicated in the map and described in the verbal boundary description attached to Ordinance No. 2251 as exhibit A\*.
- (b). The individual contributing structures included in the Tusawilla Park Historic District are those structures identified as contributing in the Tusawilla Park Historic District Master Site File Inventory as provided to the U.S. Secretary of the Department of the Interior and which are listed on the National Register of Historic Places.

**Editor's note:** \* Exhibit A is not included herein but is available for public inspection in the office of the city clerk or in the planning department.

**Section 19.** This ordinance represents an amendment only of all sections of the Code of Ordinances set forth herein except sections 94-84, 94-85 and 94-86 (which are being added to the Code). The full text of the sections being amended are set forth herein to provide an adequate context for the amendments and to make it easier to understand how the amended sections will read. By restating such sections, it is not the intent of the City of Ocala to amend the unchanged language. Rather, for purposes of Florida law, including section 70.001(12), F.S., it is the intent of the City of Ocala to amend the amended sections only to the extent of the amendatory language or provisions hereof.

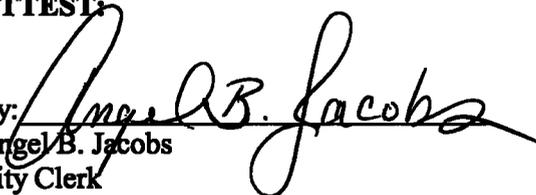
**Section 20.** Severability Clause: Should any provision or section of this ordinance be held by a court of competent jurisdiction to be held unconstitutional or invalid, such decision shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part so declared to be unconstitutional or invalid.

**Section 21.** All ordinances or parts or ordinances in conflict herewith are hereby repealed.

**Section 22.** This ordinance shall take effect upon approval by the mayor, or upon becoming law without such approval.

ATTEST:

CITY OF OCALA

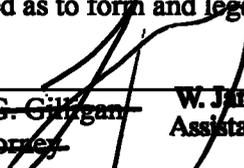
By:   
Angel B. Jacobs  
City Clerk

By:   
Reuben Kent Guinn  
President, Ocala City Council

Approved/Denied by me as Mayor of the City of Ocala, Florida, on November 19<sup>th</sup>, 2010.

By:   
Randall Ewers  
Mayor

Approved as to form and legality:

By:   
~~Patrick G. Gilligan~~ **W. James Gooding III**  
City Attorney **Assistant City Attorney**

Ordinance No: 2011-39  
Introduced: November 2, 2010  
Adopted: November 16, 2010  
Legal Ad No: A000668419 - November 5, 2010