

ORDINANCE NO. 1014

AN ORDINANCE OF THE CITY OF ARCADIA, FLORIDA; AMENDING SECTIONS 11.14.00 AND 13.06.00 OF THE CITY OF ARCADIA LAND DEVELOPMENT CODE TO PROVIDE CLARITY, IMPROVE THE FUNCTIONALITY, AND REVISE THE PROCESS AND PROCEDURES FOR THE HISTORIC PRESERVATION COMMISSION AND STAFF, THE DESIGNATION OF HISTORIC LANDMARKS, HISTORIC RESOURCES AND HISTORIC DISTRICTS, THE REGULATION, ADMINISTRATION AND ENFORCEMENT CONCERNING SUCH DESIGNATED LANDMARKS, RESOURCES AND DISTRICTS, AND THE CERTIFICATE OF REVIEW PROCESS; CREATING PROCEDURES FOR THE DEMOLITION OF PROPERTIES IDENTIFIED IN THE FLORIDA MASTER SITE FILE AND HISTORIC SURVEY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Arcadia, Florida (“City”) recognizes that the City has within its jurisdiction a significant number of historic resources, structures and properties; and

WHEREAS, the City Council recognizes that the identification, protection, enhancement and use of such resources provides a public purpose; and

WHEREAS, the City Council recognizes that these historic resources, structures and properties constitute valuable assets that contribute to the charm and appeal of the City and create a unique environment for both residential and commercial pursuits, thereby providing significant and substantial economic benefit to the City; and

WHEREAS, the City Council wishes to take advantage of all state and federal policies and programs for assistance and grants for the study, preservation, rehabilitation or restoration of historic buildings, districts and sites for the benefit of the public; and

WHEREAS, the City Council desire that more property owners seek voluntary designation of their properties as historic landmarks or historic resources; and

WHEREAS, the City Council desire that more property owners in areas with a concentration of historic landmarks or historic resources, seek designation of their areas as historic districts, through the use of the procedures set forth herein; and

WHEREAS, the City Council desires to implement additional economic incentives to encourage owners of historic structures to seek voluntary designation of such structures as

historic landmarks or historic properties, or designation of their neighborhoods as historic districts; and

WHEREAS, the regulations herein are consistent with the City's Comprehensive Plan; and

WHEREAS, the City Council desires to encourage the preservation and restoration of the City's historic resources, structures and properties for the benefit of the public; and

WHEREAS, it appears to be in the best interest of the citizens of the City of Arcadia that the City's Land Development Code as set forth herein,

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Arcadia, Florida:

SECTION 1. Findings. The Council hereby adopts and incorporates by reference herein all of the findings set forth above as findings of the Council.

SECTION 2. Amendment of the Unified Land Development Code of the City of Arcadia. Section 11.14.00 "Historic Preservation" of the Unified Land Development Code of the City of Arcadia is hereby amended as follows:

"Section 11.14.00 Historic Preservation

Section 11.14.01. Purpose and Intent.

- A. It is hereby declared a matter of public policy that the protection, enhancement, perpetuation, and use of improvements, or sites of special character or special architectural, archeological, or historic interest or value, is a public necessity and is required in the interest of the health, prosperity, safety, and welfare of the people of the City of Arcadia.
- B. The purpose of this Section is to:
 - 1. Effect and accomplish the protection, enhancement, and preservation of such improvements, sites, and districts which represent or reflect elements of the City's cultural, social, economic, political, and architectural history.
 - 2. Safeguard the City's historic, prehistoric, and cultural heritage, as embodied and reflected in such historic structures, sites, and districts.
 - 3. Stabilize and improve property values, and enhance the visual and aesthetic character of the City.
 - 4. Protect and enhance the City's historic, cultural, and architectural attractions to residents, tourists, and visitors, and serve as a support and stimulus to business and industry.

5. Ensure the harmonious, orderly, and efficient growth, prosperity and development of the City through retention and reuse of its historic and cultural Resources;
6. Strengthen civic pride and cultural stability through neighborhood conservation;
7. Promote the use of Resources for the education, pleasure, and welfare of the people of the City;
8. Provide a review process for the continued preservation and appropriate, compatible and sensitive development of new construction and additions within the city's historic districts and neighborhoods;
9. Protect and enhance the scale, character and stability of existing neighborhoods, and protect against destruction of or encroachment upon areas which contribute to the character of the City;
10. Facilitate the creation of a convenient, harmonious and attractive community, and protect the architectural beauty, special architectural features, and special landscape features of the City;
11. Avoid demolition, or other adverse effect on historic properties (Properties) and Districts, which would cause an irreparable loss to the City;
12. Assist neighborhoods to achieve a positive neighborhood identity and sense of place.

In addition, these provisions are designed to implement, be consistent with, and assist in the achievement of the goals, objectives and policies, as specifically required by the City's Comprehensive Plan, with respect to historic, conservation, and neighborhood Resources.

Section 11.14.02. Historic Structure, Historic Site, and Historic District Designation Criteria.

For purposes of this Code, a historic structure, historic site, or historic district designation may be placed on any site, natural or improved, including any building, improvement or structure located thereon, or any area of particular historic, architectural, archeological, or cultural significance to the City such as historic structures, sites, or districts which:

- A. Exemplify or reflect the broad cultural, political, economic or social history of the nation, state or community; or
- B. Are identified with historic personages or with important events in national, state or local history; or

- C. Embody the distinguishing characteristics of an architectural type or specimen inherently valuable for a study of a period, style, method of construction, or of indigenous materials or craftsmanship; or
- D. Are representative of the notable work of a master builder, designer or architect who influenced his age; or
- E. Have yielded, or may be likely to yield, information important to prehistory or history.
- ~~A. The Commission shall adopt specific operating guidelines for historic structure, historic site, and historic district designations providing such are in conformance with the provisions of Section 11.14.00 and its subsections.~~

Section 11.14.03. Recognition ~~and Regulation~~ of Historic Structures, Sites and Districts.

At such time as a historic structure, site, or district has been properly designated, the City, in cooperation with the property owner, may cause to be prepared and erected on such property a suitable plaque declaring that such property is a historic structure, site, or district. The failure to prepare and erect any such marker, or the subsequent removal thereof, shall in no way affect the designation of the historic structure, site, or district, and shall have no impact upon the implementation of the provisions of Section 11.14.00 and its subsections.

Section 11.14.04. ~~Procedures.~~ Regulation of Historic Structures, Sites and Districts.

- A. Certificate of Appropriateness. Unless and until a Certificate of Appropriateness has been granted by the Commission ~~City Council~~, no owner or person in charge of a historic structure, a historic site, or a structure within a historic district shall (1) reconstruct, alter, or demolish, or cause or allow any reconstruction, alteration, or demolition to occur to, all or any part of the exterior of such property; or (2) Construct, or cause or allow any construction of, any improvement upon such designated property or properties; or (3) relocate, or cause or allow the relocation of any such property or properties.
 - 1. Condition for Issuance of Permit. Further, unless and until a Certificate of Appropriateness has been granted by the Commission ~~City Council~~, the Building Official shall not issue a permit for any such work.
 - 2. Applications. Requests for Certificates of Appropriateness shall be made only on application forms approved by the Commission or City Council. Submittal of the application must be made with the appropriate site plans, drawings, photographs, descriptions, and other documentation needed to provide staff and the Commission with a clear understanding of the proposed action. Application fees

and other applicable charges shall be established by resolution adopted by the City Council.

3. Historic Preservation Commission Review Criteria. Upon filing of a complete application for a Certificate of Appropriateness with the City, the Commission, utilizing the Design Guidelines Handbook, shall review the application for conformity with the following criteria set forth in this Section, and shall issue recommend issuance or deny of the Certificate of Appropriateness unless based on such criteria:
 - a. ~~In the case of a designated historic structure or historic site, the proposed work would detrimentally change, destroy, or adversely affect any exterior feature of the improvement or site upon which said work is to be done;~~
 - b. ~~In the case of the construction of a new improvement upon an historic site, or within an historic district, the exterior of such improvement would adversely affect or not harmonize with the external appearance of other neighboring improvements on such site or within such district;~~
 - c. ~~In the case of any property located in a historic district, the proposed construction, reconstruction, exterior alteration, or demolition does not conform to the purpose and intent of Section 11.14.00 and its subsections and/or to the objectives and design criteria of any historic preservation plan approved for said district;~~
 - d. ~~The building or structure is of such architectural or historical significance that its demolition would be detrimental to the public interest and contrary to the general welfare of the people of the City and state; or~~
 - e. ~~In the case of a request for the demolition of a deteriorated building or structure, any economic hardship or difficulty claimed by the owner is self-created or is the result of any failure to maintain the property in good repair.~~
4. Historic Preservation Commission Decision-making Period. The Commission shall render its decision ~~make its recommendation~~ within sixty forty five (6045) days of the filing of the application. If the Commission fails to make a decision recommendation within that period, the application shall be deemed approved, and the City Administrator shall issue the Certificate of Appropriateness forwarded to the City Council for action without any recommendation.
5. ~~The final decision shall rest with the City Council. The City Council shall render the final decision within sixty (60) days of the filing of the application. If no decision is made within such time period, the application shall be deemed approved, and the City Administrator shall issue the Certificate of Appropriateness.~~

5. No Exemption from Required Permits. The issuance of a Certificate of Appropriateness shall not relieve the applicant from obtaining other permits and approvals required by the City. A building permit or other municipal permit shall be invalid if it is obtained without the presentation of the Certificate of Appropriateness required for the proposed work.
6. Ordinary Maintenance and Repairs. Ordinary maintenance and repairs may be undertaken without a Certificate of Appropriateness provided that the work involves repairs to existing features of a historic structure or site or the replacement of elements of a structure with pieces identical in appearance and provided that the work does not change the exterior appearance of the structure or site and does not require the issuance of a building permit.
7. Affirmative Maintenance Required. The owner of a property designated pursuant to this Section, either individually or as part of a district or zone, shall comply with all applicable codes, laws and regulations governing the maintenance of property. It is the intent of this section to preserve from deliberate or inadvertent neglect the exterior features of such properties and the interior portions thereof when maintenance is necessary to prevent deterioration and decay of the property. All such properties shall be preserved against decay and deterioration and shall be free from structural defects though prompt corrections of any of the following defects:
 - a. Facades that fall and injure the subject property, adjoining property or members of the public;
 - b. Deteriorated or inadequate foundations, defective or deteriorated flooring or floor supports, deteriorated walls or other vertical structural supports;
 - c. Members of ceilings, roofs ceiling and roof supports or other structural members that may rot, sag, split or buckle due to defective material or deterioration;
 - d. Deteriorated or ineffective waterproofing of exterior walls, roofs, foundations or floors, including broken, unsecured or missing windows or doors.
 - e. Any fault or defect in the property that renders it structurally unsafe, insufficiently protected from weathering, or not properly watertight.
8. Secretary of the Interior's Standards for Rehabilitation. In reviewing an application, the Secretary of the Interior's Standards for Rehabilitation (as may be amended from time to time) shall be applied.
9. Additional Criteria. The Secretary of the Interior's Standards for Rehabilitation shall be supplemented by the following criteria specific to certain types of requests:

- a. *New Construction and Alterations.* All new construction and Alterations to existing buildings within a designated historic district or on an individually designated property shall be visually compatible, and meet the following guidelines:
- i. *Setting, Orientation and Setbacks.* The Building should be situated approximately the same distance from the street as adjacent Buildings, to create a continuous street edge. The orientation of the Building should be visually compatible with that of the buildings in the Historic District. The Setting should be designed with the overall environment in mind. It should take into account the compatibility of landscaping, parking, service areas, walkways, and accessory structures.
 - ii. *Building Height.* The height of the Building at street level should be visually compatible in comparison or relation to the height of the existing contributing buildings in the Historic District.
 - iii. *Design Styles.* New Buildings should take their design cues from the prevailing architectural styles within the Historic District. Traditional or contemporary design standards and elements should relate to the existing styles.
 - iv. *Proportion of Openings.* The openings of any building within a Historic District should be visually compatible with the openings in existing contributing buildings within the Historic District. The relationship of the width of windows and doors to the height of windows and doors should be visually compatible with the existing contributing buildings within the Historic District.
 - v. *Rhythm of Solids to Voids.* The relationship between solids (walls) and voids (windows and doors) of a Building should be visually compatible with the Surrounding Buildings.
 - vi. *Rhythm of Spacing along the Street.* The relationship of Buildings to the open space between them should be compatible with the other Buildings on each side of the street in that block.
 - vii. *Relationship of Materials and Textures.* The materials and textures of a Building should be chosen with the predominant materials of the Historic District in mind. Simplicity in such use is preferable.
 - viii. *Roof Shapes.* The roof shape of a Building is a major distinguishing feature. The roof shape of a Building should be compatible with the roof shape of existing contributing buildings within the Historic

District. The roof shape shall be consistent with the architectural style of the Building.

ix. *Size, Scale, Bulk, Mass and Volume.* The physical size, scale, bulk, mass and volume should be compatible with the existing contributing buildings within the Historic District without overwhelming them.

b. *Additions.* All additions to historic structures or structures within a Historic District shall meet the following guidelines:

i. Locate an addition to the rear or least visible sides of historic structures. Locating an addition on the front elevation should be avoided.

ii. Minimize the loss of historic materials from the historic structure and protect character-defining features.

iii. Design the addition to be compatible in terms of massing, size, scale, relationship of solids to voids, and architectural features. An addition should be subordinate to the historic building.

iv. Differentiate the addition from the historic structure.

v. If permitted, rooftop additions should generally be limited to one story in height, should be set back from the wall plane and should be as inconspicuous as possible.

vi. Continue the design elements on all elevations of the new construction, not only those elevations that can be viewed from the street.

vii. Design and construct the addition so that, if removed in the future, the essential form and integrity of the historic structure will be unimpaired.

viii. Limit the size and number of openings between the old and new building by utilizing existing doors or by enlarging existing windows.

c. *Demolition.* All demolitions of historic structures within a Historic District shall comply with the following:

i. *Simultaneous certificates required.* No Building or Structure on a Property located within a District shall be demolished without first receiving a Certificate of Appropriateness for new construction. The applications for demolition and new construction shall be reviewed by the Commission simultaneously. The requirement of a Certificate of

Appropriateness for new construction may be waived by the Commission upon a good cause showing that such requirement would be unduly harsh or would result in a substantial hardship to the Property owner.

A showing of good cause may include, but is not limited to, evidence that the Property owner is unable to comply with the requirement for simultaneous new construction due to advanced age, infirmity, physical or other debilitating handicap, or financial hardship.

If an application for Certificate of Appropriateness for Demolition is approved, the owner shall, at his/her expense, fully record the building prior to Demolition. At a minimum, the owner shall provide an architectural description, floor plan with interior and exterior dimensions, interior and exterior photographs, and any other information requested by the Commission. Said record shall be deposited in the local archives, where it will be made available to the public.

Upon approval by the Commission of a Certificate of Appropriateness for Demolition, the demolition permit shall not be issued until all demolition and new construction plans for the Property have received all other required governmental approvals.

The existence of one or more of the following conditions may be the basis for denial of a demolition application:

- (A) The Resource contributes significantly to the historic character of a designated Property or District.
- (B) The Resource is listed on the National Register.
- (C) The Resource is one of the last remaining examples of its kind in the neighborhood or City.
- (D) The Resource is capable of being repaired and reused in a practical and feasible manner.
- (E) Retention of the Resource would promote the general welfare of the City by providing an opportunity to study local history, architecture and design, or by developing an understanding of the importance and value of a particular culture or heritage.
- (F) Granting a Certificate of Appropriateness for the Demolition would result in an irreparable loss to the City of a significant Resource.

- (G) The plans for the simultaneous new construction (if the Demolition is granted) are not compatible with the Property or District.
- ii. *Demolition Delay Period.* The Commission may grant a Certificate of Appropriateness for Demolition which may contain a delayed effective date. The effective date will be determined by the Commission based on the relative significance of the Resource and the probable time required to arrange a possible alternative to demolition. The Commission may delay demolition for up to three (3) months. During the demolition delay period, the Commission may take such steps as it deems necessary to preserve the Resource. Such steps may include, but are not limited to: consultations with community groups, public agencies and interested citizens; recommendations for acquisition of the Property by public or private bodies, or agencies; an exploration of the possibility of moving the Resource.
- iii. *Salvage and Preservation of Specific Features.* The Commission may require the Property owner to salvage and preserve specified classes of building materials, architectural details, ornaments, fixtures and the like.
- iv. *Authority to Initiate Designation.* If an undesignated property warrants it and it is otherwise authorized under this ordinance, the Commission initiate the designation application and review process. The Commission may require that the issuance of a demolition permit be stayed pending the Commission's review of the application and the City Council's decision to designate or deny designation of the property. However, the maximum period during which the issuance of a demolition permit may be stayed pursuant to this paragraph is one hundred twenty (120) days, unless extended by the City Council. If for any reason the designation process is not completed and the demolition application is approved, the owner shall, at his/her expense, fully record the building prior to Demolition and attempt to salvage and preserve specified classes of building materials, architectural details, ornaments, fixtures and the like.
- d. *Relocation.* The existence of one or more of the following conditions may be the basis for denial of a relocation application:
- i. The historic character or aesthetic interest of the Resource contributes to its present setting in such a manner that relocation would result in a substantial loss to the setting or District.
- ii. There are no definite plans for the area to be vacated.

- iii. There are definite plans for the area to be vacated that may adversely affect the character of the District.
- iv. The Resource cannot be moved without significant damage to its physical integrity.
- v. The proposed relocation area is not compatible with the historic, cultural, and architectural character of the Resource.
- vi. Little or no effort has been made to consider relocation within the same District or within another District with compatible historic, aesthetic, cultural, or design qualities with the relocated Resource.

10. Decisions. Decisions regarding application for Certificates of Appropriateness shall be based on the application, the application's compliance with this Ordinance, and the evidence and testimony presented in connection with the application.

In reviewing an application, staff and the Commission shall be aware of the importance of finding a way to meet the current needs of the property owner. The Staff and the Commission shall also recognize the importance of recommending approval of plans that will be reasonable for the property owner to carry out. Any conditions or requirements imposed shall be reasonably related to the Certificate of Appropriateness sought by the applicant.

11. Notice of Decision on Application. The Commission or staff shall notify the applicant in writing of any decision on the application within five (5) working days from the date of the decision.

12. Changes in Approved Work. Any change in the proposed work following the issuance of a Certificate of Appropriateness shall be reviewed by staff. If the proposed change does not materially affect the historic character or the proposed change is in accordance with the Commission's decision, staff may administratively approve the change. If the proposed change is not in accordance with the Commission's decision, a new Certificate of Appropriateness application for such change must be submitted for review.

B. Certificate of Economic Hardship. Prior to taking an appeal of a decision to the City Council on an application for Certificate of Appropriateness, an applicant may file an application for a Certificate of Economic Hardship.

1. Application. A Certificate of Economic Hardship application must be submitted within 30 days of the date of the hearing at which the Commission's decision on the application is announced.

2. Commission Agenda and Notice. The Commission shall schedule a public hearing within 60 working days from the receipt of the application and shall provide notice of such hearing in the same manner as for the Certificate of Appropriateness application.
3. Negotiations Prior to Certificate of Economic Hardship Hearing. During the period between receipt of the Certificate of Economic Hardship application and the Commission's public hearing, the applicant shall discuss the proposed action with staff, other City officials and local preservation organizations to consider alternatives that will avoid an economic hardship and have the least adverse effect to the Property and/or the District. Staff may request information from various City departments and other agencies in order to negotiate an alternative resolution that is in the best interest of the applicant and the City. If negotiations are successful, staff shall make written recommendations to the Commission regarding such alternatives.
4. Determination of Economic Hardship. The applicant has the burden of proving by competent substantial evidence that the Commission's decision regarding the Certificate of Appropriateness application has caused or will cause an unreasonable economic hardship. To determine economic hardship, the Commission may request the following:

 - a. Proposed construction, alteration, demolition and removal costs;
 - b. Structural and condition reports from a licensed professional with experience in assessing historic buildings;
 - c. Estimates as to the economic feasibility of rehabilitation or reuse;
 - d. Purchase price of the property, recent appraisals, assessments, and real estate taxes;
 - e. Details of any income obtained from the property and cash flows;
 - f. Status of any leases or rentals; and,
 - g. All other information considered necessary by the Commission to determine whether the property does or may yield a reasonable return to the owner.
5. Effect of Decision on Economic Hardship. The effect of denial of the application for Certificate of Economic Hardship is that the decision regarding the Certificate of Appropriateness is upheld. If the application for Certificate of Economic Hardship is granted, the Commission may issue the Certificate of Economic Hardship without conditions. Alternatively, the Commission may issue the

Certificate with conditions that will avoid the economic hardship and have the least adverse effect to the Property and the District.

C. Appeal of Certificate of Appropriateness and Certificate of Economic Hardship Decisions. Any applicant may appeal a decision of the Commission to the City Council regarding an application for Certificate of Appropriateness and/or an application for Certificate of Economic Hardship. The applicant shall file a written notice of the appeal with staff within 30 days of the date of the hearing at which the Commission's decision on the application is announced. The City Council shall place the matter on the Commission's agenda within 45 working days from the date of the written notice of appeal. The meeting at which the appeal is placed on the agenda shall be no later than 60 working days from the date of the written notice of appeal.

Consideration of the appeal by the City Council shall be de novo review. The City Council shall be required to apply the applicable standards and criteria set forth in this Code.

A decision of the City Council may be appealed to a court of competent jurisdiction within thirty (30) days after the hearing at which the decision is announced.

D. Miscellaneous.

1. Certified Local Government Review. The City Council is a Certified Local Government (CLG) approved by the Florida Department of State, Division of Historical Resources. The City Council as a CLG is required to participate in the Florida National Register of Historic Places nomination process, be involved in the Section 106 process, and is eligible to receive grants from the Certified Local Government Section of the Florida Department of State, Historical Resources Grants-In-Aid program.

2. Unsafe Buildings and Structures. Should the Building Official determine that a Historic Property or a Property within a Historic District is unsafe, the Planning and Zoning staff and Historic Resources Preservation Commission shall be notified of such findings. Within applicable laws and regulation, the Building Official shall endeavor to have the Resource repaired rather than demolished and shall take into account any comments and recommendation by the Commission. The Commission may take appropriate actions to Effect and accomplish the preservation of the Resource, including, but not limited to, negotiations with the owner and other Interested Parties, provided that such actions do not interfere with the Florida Building Codes.

In the case where the Building Official determines that there are emergency conditions dangerous to the life, health or property affecting a Historic Property or a Property within a Historic District and timely Demolition is the only course of action, the Building Official may order the Demolition and notify the Planning and Zoning Division of the impending action. In this instance, a Certificate of

Appropriateness will not be required and the Historic Resources Preservation Commission will promptly be notified of the action being taken.

3. *Waiver of Technical Requirements.* The provisions of the technical codes relating to the construction, alteration, repair, enlargement, restoration or moving of Buildings may not be mandatory for those Resources listed in the Arcadia Register of Historic Places and the National Register of Historic Places, when evaluated by a Florida registered architect or engineer and demonstrated to the Building Official to be safe and in the public interest of health, safety and welfare.

Resources or portions thereof that do not strictly comply with the Florida Building Code may be considered to be in compliance, if it can be shown to the satisfaction of the Building Official that equivalent protection has been provided or that no hazard will be created or continued through noncompliance. (Life safety and property conservation shall be provided in accordance with Chapter 11, Sections 1105 and 1106 of the 2007 Florida Building Code, or as subsequently amended).

Alterations to Resources listed in the Arcadia Register of Historic Places and the National Register of Historic Places may receive exemption from accessibility requirements. (Pursuant to Chapter 11, Section 11-4.1.7 of the 2007 Florida Building Code, or as subsequently amended, the Building Official may determine that compliance for accessible routes (exterior and interior), ramps, entrances, or toilets would threaten or destroy the historic significance of the Building, in which case the alternative requirements in Chapter 11, Section 11-4.1.7(3) may be utilized).

4. *Administrative and Commission Approval of Zoning Code Variances.* Alterations to Resources listed in the Arcadia Register of Historic Places and the National Register of Historic Places may receive variances to zoning code regulations, if such regulations would adversely impact or threaten the historic significance of the Resource. The responsibility for review and approval of an application for a variance in association for a Certificate of Appropriateness for Alterations of Resources listed in the Arcadia Register of Historic Places and the National Register of Historic Places will rest with staff, unless the corresponding Certificate of Appropriateness requires Commission action, in which case the Commission will have review and approval responsibility. Such requests for variance shall be made on a separate application, approved by the Commission. Said application fee and other applicable charges shall be established by resolution adopted by the City Council.

5. *Sustainable Building Practices.* The application of sustainable, energy efficient and green building practices to improvements associated with historic properties is encouraged whenever they are compatible with best historic preservation practices. Whenever possible, equipment such as solar panels, wind generation devices, mechanical equipment etc., should not be affixed to the building, but sited in the rear or side yard locations and fully screened with landscaping, fence

or wall. When placement upon the building is unavoidable, such equipment as well as skylights, shall be located on a non-character defining elevation or roof slope that is not visible from the street. In no instance, shall the equipment be allowed to be placed upon any character defining feature. Expedited review shall be afforded to those applicants who propose the placement of such equipment on other than the building facades or roof.

Section 11.14.05. ~~Interim Control~~ Procedures.

A. ~~Applications~~ Eligible Applicants. Applications for historic designation may be initiated by only the following:

1. Application for designation of any property as a historic structure or a historic site, or rescission of any such prior designation, may be made ~~only~~ by the owner(s) of such property.
2. Application for designation of any area as a historic district, or rescission of any such prior designation, may be made only by the owner(s) of at least fifty percent (50%) of the land area to be included in such historic district. Any application for designation as a historic district shall be accompanied by a draft historic preservation plan, which shall be reviewed concurrently with the application for designation.
3. The City Council may, upon its own motion, apply for any property to be designated as a historic structure or historic site, for any area to be designated as a historic district, or for the rescission of any previously made designations. Any City-initiated application for designation as a historic district may be accompanied by a draft historic preservation plan or such plan may be prepared by the City after final designation has been approved by the council.
4. All applications shall be made to the City Administrator, or his or her designee, who shall forward same to the Commission for hearing.
5. Only the Commission or the City Council may initiate designation of a property or district owned by the City, County, State or by an entity created by state law. For District designations, each Property shall be allotted one vote. The identity of the property owners shall be determined by the most current DeSoto County Property Tax Rolls.

B. Designation of Historic Structures, Sites, and Districts.

1. First Public Hearing. Upon receipt of an application, the Commission shall hold a public hearing to review the application and make its recommendation based upon a review of the criteria in Section 11.14.02, above. At such public hearing, the Commission shall hear all proffered testimony of interested persons and any expert witnesses and shall review any written records submitted to it. Within ten

(10) days after the close of the public hearing, the Commission shall make its recommendation, which shall be reduced to writing for formal presentation to the City Council.

2. *Second Public Hearing.* The City Council, upon receipt of a recommendation from the Commission, shall hold a public hearing, shall hear all proffered testimony of interested persons and any expert witnesses, and shall review any written records submitted to it. Within ten (10) days after the close of the public hearing, the Council shall make the final determination regarding designation or rescission, as the case may be. The Council's decision shall be in the form of a City Resolution and shall include findings of fact related to the specific criteria contained in Section 11.14.02.
3. *Public Notice.* At least ten (10) days prior to both the Commission and the Council hearings, the City shall notify the owners of record, as listed in the Office of the County Property Assessor, who are owners of property in whole or in part situated within three hundred (300) feet of the boundaries of the property or properties affected. Such notice shall include the address or general location (where no specific address is assigned) of, and a location map showing, the property(ies) or area(s) which will be discussed at the hearing. Such notice shall further include the time and place at which such public hearing shall occur.
4. *Arcadia Register of Historic Places.* A Resource designated by the City Council as historic shall be listed in the Arcadia Register of Historic Places. The Register shall be updated periodically and the inventory material will be open to the public. Inventory materials shall be compatible with the Florida Master Site File and duplicates of all inventory materials will be provided to the State Historic Preservation Office. Resources listed in, or eligible for listing in the National Register or on the Arcadia Register of Historic Places, either as a Property or as a Contributing Property within a District, may be entitled to modified enforcement of the City's applicable building and zoning codes, if in accord with the Design Guidelines Handbook.
5. *Designation Recorded.* The City Resolution making the historic designation shall be recorded in the Official Records of DeSoto County. Boundaries for historic districts and individual properties identified in the resolution shall be clearly established. The designation shall be noted in the official records of the City's Planning & Zoning and Building Departments to ensure that all City actions taken in connection with the subject property or district are taken subject to the designation.
6. *Removal of Designation.* A designation may be removed by the City Council based upon the Commission's recommendation. Such recommendation shall be based upon new and compelling evidence and evaluation of work or natural cause producing an adverse effect to a Property or District. The same guidelines and the

same procedures established for designation shall be considered for a removal of designation.

7. Designation of County, State or Other Political Subdivision Properties. County, state or political subdivision entity-owned Properties may be designated as a Property or District if such designation is not prohibited or preempted by law, or otherwise provided for in the Intergovernmental Coordination Element of the Comprehensive Plan. In the absence of prohibition, preemption, or other agreement, such other government may only avoid designation of its Property by bearing the burden of proof that public interests, on balance, are best served by avoiding such designation. Such determination shall be established by the process as set forth in this Code. Once designated, unless reversed upon appeal, such designated Property or District shall comply with and be regulated by all regulations contained in this Code.
 8. Nominations to the National Register of Historic Places. As part of the duties under the Certified Local Government program, the Historic Preservation Commission shall review all nominations of local property to the National Register of Historic Places following the regulations of the State Historic Preservation Office.
 - a. Appropriate local officials, owners of record, and applicants shall be given a minimum of thirty calendar days and not more than seventy-five calendar days prior notice to Historic Preservation Commission meetings in which to comment on or object to the listing of a property in the National Register.
 - b. Objections to being listed in the National Register by property owners must be notarized and filed with the State Historic Preservation Officer. Within thirty (30) days after its meeting, the Historic Preservation Commission shall forward to the State Historic Preservation Officer its action on the nomination and the recommendations of the local officials. Appropriate local officials, the owner and the applicant shall be notified of the Commission's action.
 - c. The State Historic Preservation Officer will take further steps on the nomination in accordance with federal and state regulations. If either the Commission or the local officials or both support the nomination, the State Historic Preservation Officer will schedule the nomination for consideration by the state review board for the National Register at its next regular meeting. If both the Commission and the local officials recommend that a property not be nominated to the National Register, the State Historic Preservation Officer will take no further action on the nomination unless an appeal is filed with the State Historic Preservation Officer.
- C. Adoption of and Revisions to Historic Preservation Plans.

1. Each historic preservation plan shall include a cultural and architectural analysis supporting the historic significance of the area, the specific guidelines for development within the area, and a statement of preservation objectives.
2. Concurrent with the review of any private or City-initiated application for designation of a historic district, or subsequent to the approval of such any City-initiated application, the Commission shall hold a public hearing to review and recommend action on a historic preservation plan for the area. At such public hearing, the Commission shall hear all proffered testimony of interested persons and any expert witnesses and shall review any written records submitted to it. Within ten (10) days after the close of the public hearing, the Commission shall make its recommendation, which shall be reduced to writing for formal presentation to the City Council.
3. The City Council, upon receipt of a recommendation from the Commission, shall hold a public hearing, shall hear all proffered testimony of interested persons and any expert witnesses, and shall review any written records submitted to it. Within thirty ten (~~130~~) days after the close of the public hearing, the Council shall make the final determination regarding approval of the plan. The Council's decision shall be in the form of a City Resolution and shall include findings of fact related to the specific criteria contained in subparagraph (1), above.
4. If a historic preservation plan is being reviewed concurrent with the application for designation, the notices for the public hearings for consideration of such application shall indicate as much. Otherwise, if a historic preservation plan is being reviewed separately, said notices shall be provided in the same manner as indicated in subparagraph (B)(2), above.

Section 11.14.06. Interim Control. ~~Penalties for Violations.~~

No building permit shall be issued by the Building Official for alteration, construction, demolition, or removal of a nominated historic structure, a nominated historic site, or any property or structure within a nominated historic district from the date of the meeting of the Commission at which a nomination form is first presented until the final disposition of the nomination by the City Council unless such alteration, removal, or demolition is authorized by formal Resolution of the City Council as necessary for public health, welfare, or safety. In no event shall the delay be for more than one hundred eighty (180) days.

Section 11.14.07. Penalties for Violations. ~~Recognition of Vested Rights.~~

A. General Penalties. It shall be unlawful for any person to violate or fail to comply with any provision of this Code or other ordinance of the city and where no specific penalty is provided therefore, the maximum penalty which may be imposed upon any person who shall be adjudged to have violated any provision of this Regulation or other ordinance of the city shall be a fine not exceeding five hundred dollars (\$500.00) or a term of imprisonment not in excess of sixty (60) days, or by both such

fine and imprisonment; provided, however, that this section shall not conflict with any penalties imposed for any offense under the laws of the State of Florida, and no penalty for violation of these Regulations or any ordinance of the city shall exceed the maximum penalty provided for the violation of a comparable state law. Each day any violation of any provision of this Code or any other ordinance of the city shall constitute a separate offense. In addition to any penalty provided herein, the person or organization may be subject to any other penalty as provided in the city's Code of Ordinances, or as otherwise provided by Florida law.

B. *Time.* Whenever the judgment of a court of appropriate jurisdiction shall, under any of the ordinances of the city, adjudge a person to pay a fine, or a fine and costs of prosecution, such judgment shall also provide a period of time for which such person shall be imprisoned in default of the payment of the same.

C. *Imprisonment.* Whenever the sentence shall be one of both fine and imprisonment, it shall also provide for an additional period of imprisonment, for which such person shall be held in default of payment of the fine and/or costs of prosecution imposed. Such additional period shall commence to run from the expiration of the other period of imprisonment fixed by the sentence, provided that in no case shall the imprisonment for failure to pay a fine, or fine and costs, together with any other imprisonment in the same case, exceed the period of six (6) months. Nothing in this section shall exempt a prisoner from being put to labor during the period of such additional imprisonment.

D. *Civil Enforcement.* In case any building or structure is erected, constructed, reconstructed, altered, repaired, or maintained, or any building, structure, land, or water is used in violation of this Code or any ordinance or other regulation made under authority conferred hereby, the authorized city official, in addition to other remedies, may institute any appropriate action or proceedings in a civil action in the circuit court to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use and to restrain, correct, or abate such violation to prevent the occupancy of said building, structure, land or water, and to prevent any illegal act, conduct of business, or use in or about such premises.

E. *Stoppage of Work.* Failure to comply with any city approved development order or development permit, or any applicable city ordinance or land development code may result in an order to stop work from the authorized city official. Damage to public property resulting from work performed may result in a stop work order if a threat exists to the health and safety of the public.

~~Any person or persons violating any provision of Section 11.14.00, and its subsections, shall be fined up to two hundred fifty dollars (\$250) for each separate violation. Each and every day during which a violation continues shall be deemed to be a separate offense. Notice of violations shall be issued by the City Administrator, the Building Official, or any Code Enforcement Officer of the City.~~

Section 11.14.08. Definitions, Severability.

Any definition set forth in 36 C.F.R. Part 60 (the then-current Code of Federal Regulation, as may be amended from time to time) shall be included in the definition for such term (and shall control to the extent there is a conflict of meaning), or as an additional definition, if such term is not otherwise defined:

Alteration - Any construction or change of a resource.

Arcadia Register of Historic Places - An official listing maintained by the city of all historic properties and historic districts so designated by these Regulations.

Building(s) - A construction designed to stand permanently and created principally to shelter any form of human activity.

Certificate of Appropriateness - A document evidencing approval by the Arcadia Historic Preservation Commission for work proposed by an applicant.

Certificate of Economic Hardship - A document evidencing approval by the City Council of an application for economic hardship as that term is defined in this Code.

Certified Local Government (CLG) - A local government approved by the Florida Department of State, Division of Historical Resources, to perform certain historic preservation functions.

Commission - The Arcadia Historic Preservation Commission (HPC).

Contributing Property - A property that contributes to the historic significance of a historic district by location, design, setting, materials, workmanship, feeling, and association and thus adds to the district's sense of time, place, and historical development.

Demolition - Any act or process that partially or totally destroys a resource.

Design Guidelines Handbook - Document utilized by the city which illustrates examples of design features, historic styles and treatment options which preserve the historical, cultural and architectural character of a historic district or property.

District - see "Historic District" below.

Economic Hardship - An onerous, extreme and exceptional economic burden that would be placed upon a property owner by the denial of an application for a certificate of appropriateness or by the imposition of conditions placed on the granting of such certificate.

Effect - A change in the quality of the historical, architectural, archeological or cultural significance of a property or district, or in the characteristics that qualify the property or district as historically important.

Florida Master Site File - An archive and database of all known archaeological and historical sites and districts recorded within the State of Florida that is maintained by the Florida Department of State Division of Historical Resources and is organized alphabetically by county and numerically, as recorded.

Historic District - A geographically definable area designated by the City Council as possessing a significant concentration, linkage, or continuity of properties united historically or aesthetically by plan or physical development.

Historic Properties - Those properties designated by the City Council as being of historical, cultural, architectural or archaeological importance.

National Register of Historic Places - The official federal list of historic districts, sites, buildings, structures, and objects significant in American history, architecture, landscape architecture, engineering, archaeology, and culture. Authorized under the National Historic Preservation Act of 1966, and by 36 C.F.R. 60 as each may be amended from time to time, and maintained by the U.S. Department of the Interior.

HPC - see "Commission" above.

Non-Contributing Property - A classification applied to a property within a historic district signifying that it does not contribute to the qualities that give the historic district cultural, historical, architectural, or archaeological significance as embodied in the criteria for designation of a district, but which because of its location within a district should follow the review procedures required by these Regulations.

Object - A primarily artistic item closely linked to the history of the property. Said item is typically relatively small in scale and simply constructed, such as a statue, milestone, statuary, or fountain.

Property - Area of land containing a single historic resource or a group of resources, which may include any part of a building, site, structure, object, or district.

Reconstruction - The process of reproducing by new construction the exact form and detail of a demolished property as it appeared at a certain point in time.

Rehabilitation - The process of repairing or altering a property so that an efficient, sustainable and appropriate contemporary use is achieved, while preserving those significant historical, architectural, or cultural features which establish the character of the property.

Relocation - Any change of the location of a building, structure or object from its present setting to another setting.

Resource - A building, site, structure, object, or district that reflects historical, archaeological, or cultural significance.

Restoration - The process of accurately recovering the form and details of a property as it appeared at a particular period of time, which may involve the removal of later additions or alterations, or the replacement of missing features.

Secretary of the Interior's Standards for Rehabilitation - A federal document set forth in 36 C.F.R. 67, as amended from time to time, which provides guidance on the sensitive rehabilitation of a historic property.

Setting - The physical environment of a property, including all landscape elements.

Site - The location of an event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself possesses historic, cultural, or archaeological value regardless of the value of any existing structure.

Structure(s) - A combination of materials to form a construction, generally used to distinguish from buildings those functional constructions made for purposes other than creating human shelter. (For example, a bridge, wall, fence, pond).

Section 11.14.09. Ordinances Not Affected by Regulation.

Nothing in this Code or the ordinance adopting this Code shall be construed to repeal or otherwise affect the validity of any of the following when not inconsistent with this Code:

- A. Any ordinance promising or guaranteeing the payment of money for the city, or authorizing the issuance of any bonds of the city or any evidence of the city's indebtedness;
- B. Any appropriation ordinance or ordinance providing for the levy of taxes or for a budget;
- C. Any ordinance annexing territory to the city or excluding territory as a part of the city;
- D. Any ordinance granting any franchise, permit or other right;
- E. Any ordinance approving, authorizing, or otherwise relating to any contract, agreement, easement, deed or other instrument;
- F. Any administrative ordinance not inconsistent with this Regulation;

G. Any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating or repairing any street or public way or lawfully established bulkheads or bulkhead lines;

H. Any ordinance regulating, restricting or prohibiting traffic on particular streets or in particular localities;

I. Any ordinance prescribing the street grades of any street in the city;

J. Any ordinance providing for local improvements or making assessments therefore;

K. Any ordinance dedicating or accepting any plat or subdivision in the city;

L. Any ordinance zoning or rezoning specific property;

M. Any ordinance providing for the compensation of officers and employees; and

N. Any temporary or special ordinance.

All such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length herein.

Section 11.14.10. Recognition of Vested Rights.

Nothing in Section 11.14.00, and its subsections, shall be deemed as an attempt to abrogate any vested right any property owner may have acquired prior to the effective date of the Ordinance by which these provisions were adopted. Any property owner who believes these provisions infringe upon any vested right shall indicate same upon the first application for any permit or approval (including without implied limitation any building permit or Certificate of Appropriateness) for any construction, reconstruction, alteration, or demolition to occur on any property regulated hereunder.

Section 11.14.11. Severability.

If any provision of Section 11.14.00, and its subsections, or the application thereof, to any person or circumstances is held invalid, the remainder of this Code and the application of such provisions to other persons or circumstances shall not be affected thereby."

SECTION 3. Amendment of the Unified Land Development Code of the City of Arcadia. Section 13.06.00 "Historic Preservation Commission" of the Unified Land Development Code of the City of Arcadia is hereby amended as follows:

"Section 13.06.00. Historic Preservation Commission.

A. *Terms and Definitions.* See Section 11.14.08 for all applicable terms and definitions which pertain to the regulations and standards contained herein.

B. *Establishment, Composition and Terms.* The Historic Preservation Commission shall consist of seven (7) members who shall be appointed by the City Council. Members need not be residents or owners of businesses that are within the city, but preference shall be given to individuals who reside or have a principal place of business in the city. Where possible, a minimum of two (2) members shall be chosen from among the disciplines of architecture, history, architectural history, archaeology, landscape architecture or planning. A minimum of three (3) additional members of the Commission shall be experienced in the areas of commercial development, real estate, banking or law. The two (2) remaining members shall be citizen members at large. The two (2) alternate members shall be from any of the foregoing professions or citizen members at large. All members shall have demonstrated a special interest, experience or knowledge in historic preservation or closely related disciplines.

Members of the Commission shall serve three (3) year terms. Of the initial appointments, four (4) members shall be appointed for a term of three (3) years and three (3) members shall be appointed for a term of two (2) years. Vacancies on the Commission, including expired terms, shall be filled within sixty (60) days by persons with the same background as the original appointee, or related field, in order to maintain the desired Commission makeup.

The Commission shall hold a minimum of four (4) meetings per year at regular intervals. All meetings of the Commission shall be publicly announced and will have a previously advertised agenda. The meetings shall be open to the public.

Persons serving on the Commission are encouraged to attend educational meetings or workshops to develop a special interest, expertise, experience or knowledge in preservation, architecture, or quasi-judicial boards.

C. *Procedures and Quorum.* The Commission shall conduct itself in accordance with the State of Florida's Government in the Sunshine Law, section 286.011, *Florida Statutes*, and adopt rules of procedures, subject to any limitations prescribed by law. The rules of procedures shall be available for public inspection upon request. Four (4) members shall constitute a quorum for the transaction of business.

The Commission shall select a chairman and other officers and shall prescribe their duties and powers. Planning and Zoning staff shall attend all meetings, acting in an advisory capacity and participating fully in Commission discussions, but having no right to vote. The Commission shall keep minutes of its proceedings, record the vote on each question and keep records of its discussions, recommendations and other official actions. Summary minutes will be prepared and made available to the public after adoption by the Commission.

D. Removal. Any member of the Commission may be removed by majority vote of the City Council.

E. Powers and Duties of the Commission. The Commission shall have the following powers and duties within the incorporated city limits of Arcadia, Florida:

1. To recommend to the City Council the following:
 - a. Nomination of properties and districts to the National Register of Historic Places, as a required duty of being a certified local government.
 - b. Nominations of properties and districts to the Arcadia Register of Historic Places.
 - c. Adoption, modification, or replacement of a Design Guidelines Handbook.
2. To hold public hearings and to approve or deny applications for certificates of appropriateness or certificates of economic hardship affecting proposed or designated properties or properties within districts;
3. To advise and assist owners of properties on physical and financial aspects of preservation, renovation, rehabilitation and reuse, and on procedures for inclusion in the National Register of Historic Places;
4. To call upon available city staff members as well as other experts for assistance and/or technical advice;
5. To authorize a member of the Commission to testify before a board or commission on any matter affecting historically, culturally, archaeologically, and architecturally significant properties and resources;
6. To confer recognition upon the owners of properties and districts by means of certificates, plaques or markers;
7. To recommend amendments or changes to this Code;
8. To inform and educate the citizens of the city concerning the historic, cultural, archaeological, and architectural heritage of the city; and
9. To participate in survey and planning activities of the Certified Local Government;
10. To coordinate with the State of Florida's Division of Historical Resources Certified Local Government program by satisfying the following requirements:

- a. The State Historic Preservation Officer shall be given thirty (30) calendar days prior notice of all meetings and within thirty (30) days following such meetings shall be provided with the minutes and record of attendance of the Commission and the public.
- b. The State Historic Preservation Officer shall be notified of any change of Commission members within thirty (30) days of their appointment.
- c. Notify the State Historic Preservation Officer immediately of all new historic designations or alterations to existing designations.
- d. Submit amendments to this Code to the State Historic Preservation Officer for review and comment at least thirty (30) days prior to adoption.
- e. Submit an annual report by November 1 covering activities of the previous October 1 through September 30 and shall include the following information:
 - i. A copy of the Rules of Procedure;
 - ii. A copy of the Historic Preservation Ordinance;
 - iii. Resumes of the Historic Resources Preservation Commission members;
 - iv. Changes to the Historic Resources Preservation Commission membership;
 - v. New local designations and National Register listings;
 - vi. A review of survey and inventory activity with a description of the system used;
 - vii. A program report on each grant-assisted activity; and
 - viii. Number of projects reviewed.
- 11. To undertake any other actions or activity necessary or appropriate to the implementation of its powers and duties or to implementation of the purpose of this Code.
- 12. To undertake any responsibilities complementary to those of the State Historic Preservation Office.

~~A Historic Preservation Commission is hereby created. The City Council, in its discretion, may constitute a separate Commission to sit in this capacity or may appoint the Local Planning Agency for the City to serve in this capacity. If a separate body is~~

~~constituted to serve in this capacity, the membership shall consist of at least seven (7) members and shall be comprised as follows, if available in the community: at least one member shall be a registered architect; at least one member shall be a historian; at least one member shall be a licensed real estate broker; all members shall have a known interest in historic preservation; and all members shall be citizens of Desoto County. The Commissioners shall be appointed by majority vote of the City Council. The City Administrator, or his or her designee, shall provide any necessary clerical or administrative support for the Commission.~~

~~The Commission shall have the power, subject to Section 11.14.04, to recommend the designation of historic structures, historic sites, and historic districts within the city limits. Final designations shall be made by the City Council. Such recommendations and final designations shall be made based on the criteria contained in Section 11.14.02. Once designated, such historic structures, historic sites, and structures and sites within historic districts shall be subject to all the historic preservation provisions contained under Section 11.14.00 and its subsections."~~


SECTION 4. Codification. The publisher of the City's Code of Laws, the Municipal Code Corporation, is directed to incorporate the amendments included in Section 2 and Section 3 above into the Unified Land Development Code of the City of Arcadia.

SECTION 5. Severability. If any section, sentence, clause, or other provision of this Ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such section, sentence, clause, or provision shall be deemed severable, and such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining sections, sentences, clauses, or provisions of this Ordinance.

SECTION 6. Effective Date. This ordinance shall be effective immediately upon final passage by the City Council.


5th PASSED BY THE CITY COUNCIL OF THE CITY OF ARCADIA, FLORIDA, on this
July day of July, 2016.

CITY OF ARCADIA, FLORIDA



Susan Coker, Mayor

ATTEST:

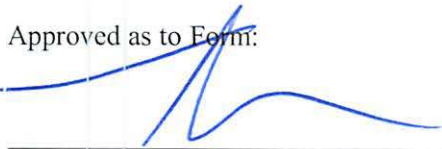
By: 

Penny Delaney, City Clerk

Passed on First Reading the 7th day of June, 2016

Passed on Second Reading the 5th day of July, 2016

Approved as to Form:



Thomas J. Wohl, City Attorney