

**ORDINANCE 3864**

AN ORDINANCE  
To Be Entitled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FORT MYERS, FLORIDA, AMENDING THE CITY CODE, SUB-PART B, LAND DEVELOPMENT CODE, AMENDING CHAPTER 114 HISTORIC PRESERVATION; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

**BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF FORT MYERS,**

**FLORIDA,** that:

**SECTION 1.** The City Code of the City of Fort Myers, Florida, Sub-Part B, Land Development Code, Chapter 114 Historic Preservation, is hereby amended in its entirety and attached hereto as Exhibit A to this ordinance.

**SECTION 2.** Severability. Should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence, or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or part thereof other than that part declared to be invalid.

**SECTION 3.** Effective Date. This ordinance shall become effective immediately upon adoption.

## EXHIBIT A

### Chapter 114 - HISTORIC PRESERVATION

#### **Sec. 114-1. - Purpose and intent.**

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

#### **Sec. 114-2. - Definitions.**

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

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

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

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

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

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

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

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

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

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

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

CFR means Code of Federal Regulations.

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

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

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

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

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

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

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

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

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

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

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

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

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

*Historical character or importance* means the site, improvement, and structure has character, interest or value as a part of the development, heritage or cultural characteristics of the community; is associated with the events that have made a significant contribution to the broad pattern of local history; is associated with the lives of persons significant to our past; exemplifies the cultural, political, economic, social, historic and prehistoric heritage of the community; or may have yielded or may be likely to yield information on recorded history.

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

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

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

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

*Minor exterior work* means exterior changes ~~outlined in design guidelines prepared for the historic district that are approved by the historic preservation commission and ratified by city council~~ that do not involve substantial alterations, additions, or demolition that could impair the integrity of a building or structure located within a designated historic district. See section 114-71 [Table 1. Approval Matrix]

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

*Non-contributing resource* means any building, structure, or site which does not contribute to the overall historic significance of a designated historic district due to alterations, disturbances or other changes and therefore no longer possesses historic integrity, or because it was not present during the period of historic significance or is incapable of yielding important information about that period.

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

*Owner* means those individuals, partnerships, corporations, trustees, limited liability companies, public agencies, or other entities holding fee simple title to real property. The term "owner" does not include individuals, partnerships, corporations or public agencies holding easements or less than a fee simple interest, including leaseholds, in real property.

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

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

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

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

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

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

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

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

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

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

*Restoration* means the act or process of accurately recovering the form and details of a building, structure or site 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.

~~*Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings*~~ means a federal document currently set forth in 36 CFR ~~67~~ 68 establishing standards and guidelines for the appropriate rehabilitation

and preservation of historic resources, as it may be amended from time-to-time. See section 114-71.

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

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

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

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

*State of emergency condition* means an unforeseen combination of events or circumstances resulting in an urgent need for assistance or relief, such as an emergency declaration by state or local officials or a fire or imminent collapse that threatens a particular site.

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

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

- (a) No historic district within the city shall be designated by any city agency except as provided in this chapter.
- (b) Upon the recommendation of the city council or the historic preservation commission a request may be submitted to the planning division to prepare or assist in preparation of a designation report. An area may be identified as being potentially suitable for designation as an historic district. The area shall be surveyed and studied for the purpose of determining the age and significance of each building, site, structure, or object within the area. Properties within the area with buildings or structures that are not of such significance to be designated individually but are an important part of the overall area shall be deemed as "non-contributing" properties. A nomination report shall be prepared based on the results of the survey. Once the district boundaries are determined, the property owners shall be surveyed for their agreement with the designation and the results shall be available and considered during public hearings at meetings of the historic preservation commission, planning board and the city council.
- (c) The historic preservation commission shall review the report and make a recommendation to the planning board, accompanied by a report stating the findings of the historic preservation commission, concerning the relationship between the nominated historic district and the National Register criteria for designation.

- (d) The historic preservation commission shall determine whether the nominated historic district meets the criteria for designation, based on a report stating their findings regarding the relationship between the nominated historic district and the National Register criteria for designation specified below. At least two of the National Register criteria must be met:
- (1) Value as a significant reminder of the cultural, historical, architectural or archaeological heritage of the city, state or nation.
  - (2) Location is the site of a significant local, state, or national event.
  - (3) Identified with a person or persons who significantly contributed to the development of the city, state or nation.
  - (4) Identified as the work of a master builder, designer or architect whose individual work has influenced the development of the city, state or nation.
  - (5) Value as a building is recognized for the quality of its architecture, and it retains sufficient elements showing its architectural significance.
  - (6) Distinguishing characteristics of an architectural style valuable for the study of a period, method of construction, or use of indigenous materials.
  - (7) Suitability for preservation or restoration.
- (e) The planning board shall consider the nomination request, the findings of the historic preservation commission and nomination request consistency with the comprehensive plan, and make a recommendation to the city council. The property owners within the proposed district shall be notified by United States mail at least two weeks in advance of the planning board public hearing date and time.
- (f) The city council shall consider the nomination, hold a public hearing, and adopt an ordinance establishing an historic district, and the boundaries thereof, and indicating which properties in the historic district are “non-contributing” or vacant lots. The property owners shall be notified by United States mail at least two weeks in advance of the date and time of the public hearing before city council.
- ~~(g)~~ After designation of a historic district by the city council, the historic preservation commission may by resolution reclassify a “contributing” resource as “non-contributing” to correct an error, to reflect an approved demolition or relocation, or to reflect approved alterations that reduce historic significance.
- ~~(g-h)~~ The designation of any district may be amended or rescinded through the same procedure utilized for the original designation, by the filing of an application for rescission or amendment of designation utilizing the procedure hereinabove set forth. Any historic preservation commission recommendation to amend or rescind a prior designation shall be based on new evidence and negative evaluation according to the same criteria used for designation in existence at the time of such application for revision or amendment.
- ~~(h)~~ i) Boundaries for designated historic districts identified in or by this chapter shall be clearly established.

- (f j) All ordinances designating historic districts shall be recorded by the city clerk in the public records of the county within 30 calendar days of the date the city council renders its decision.
- (k) Article IV of this chapter shall be updated periodically to reflect the boundaries of historic districts and to identify properties within each district that have contributing structures, non-contributing structures, or no structures.
- (l) The historic properties database described in section 114-88 shall reflect all changes to historic districts as described in Article IV.
- ~~(j) The planning division shall develop and maintain a list of historic districts and corresponding maps. This list shall be periodically updated, and shall contain the buildings, structures, and sites located within the boundaries of the designated historic district. (See section 114-148, historic districts legal descriptions, and section 114-149, historic landmark legal descriptions).~~

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

- (a) No historic landmark within the city shall be designated by any city agency except as provided in this chapter.
- (b) The historic preservation commission shall seek and accept nominations of buildings, sites and structures for designation as historic landmarks in the following manner:
  - (1) The designation process under this chapter may be initiated by a written petition from the property owner, by majority vote of the historic preservation commission, or by vote of the city council.
  - (2) Nominations shall be made to the historic preservation commission on application forms available from community development services. Applications shall be accompanied by sufficient information to warrant further investigation of the property and to aid in the preparation of a designation report.
  - (3) A complete application shall include the names of all owners of the property proposed for designation, a description of the proposed landmark including its location, a statement of significance as defined by the criteria for designation established below. At least two of the National Register criteria must be met:
    - a. Its value as a significant reminder of the cultural, historical, architectural or archaeological heritage of the city, state or nation.
    - b. Its location is the site of a significant local, state, or national event.
    - c. It is identified with a person or persons who significantly contributed to the development of the city, state or nation.
    - d. It is identified as the work of a master builder, designer or architect whose individual work has influenced the development of the city, state or nation.
    - e. Its value as a building is recognized for the quality of its architecture, and it retains sufficient elements showing its architectural significance.

- f. It has distinguishing characteristics of an architectural style valuable for the study of a period, method of construction, or use of indigenous materials.
  - g. Its suitability for preservation or restoration.
- (4) Boundaries for properties which meet the criteria for designation identified in this chapter shall be clearly established.
  - (5) If the application is submitted by someone other than the property owner, a copy of the application shall be immediately forwarded to the owner of record by certified mail.
  - (6) Upon notification, any owner or owners of property who object to the proposed designation shall return a notarized affidavit to the historic preservation commission certifying that the party is the sole or partial owner of the property and that they object to the proposed designation. A blank affidavit of consent/objection shall be mailed to each property owner together with the notice of proposed designation as provided above. The property owner shall be advised that in order to object to the proposed designation the notarized affidavit of objection must be completed and returned within 30 days after receipt as evidenced by the certified mail receipt.
  - (7) The historic preservation commission shall review the nomination and make a recommendation to the planning board accompanied by a report stating the findings of the historic preservation commission concerning the relationship between the nominated historic landmark and the National Register criteria for designation identified above.
  - (8) The planning board shall consider the nomination, findings of the historic preservation commission and consistency with the comprehensive plan. If the property owner consents to the proposed landmark designation, the nomination will be presented to the historic preservation commission for consideration and designation as a landmark. All historic landmarks approved by the historic preservation commission presented to city council for consideration and adoption by ordinance. The property owner shall be notified by mail at least two weeks prior to the planning board public hearing. If the property owner objects to the designation, the planning board shall forward the notarized affidavit containing their objection with their recommendation of the nomination to city council for consideration.
  - (9) If the owner objects to the landmark designation, city council shall consider the nomination, hold a public hearing, and may adopt an ordinance establishing an historic landmark, and the boundaries thereof provided that at least two of the National Register criteria are met and the report presented supports the designation. The city council shall be the only entity to designate a landmark without the property owner's consent. Boundaries of designated landmarks must be clearly established by a legal description of the property and a site map. The property owner shall be notified by certified mail, return receipt requested at least ten days prior to the city council public hearing.

- (10) The designation of any landmark or landmark site may be amended or rescinded through the same procedure utilized for the original designation, by filing an application for rescission or amendment of designation utilizing the procedure hereinabove set forth. Any historic preservation commission recommendation to amend or rescind a prior designation shall be based on new evidence and negative evaluation according to the same criteria used for designation in existence at the time of such application for revision or amendment.
- (c) All ordinances designating historic landmarks shall be recorded by the city clerk in the public records of the county within 30 calendar days of adoption by city council and retained on file in the city clerk's office.
- (d) Article IV of this chapter shall be updated periodically to reflect historic landmark designations.
- (e) The historic properties database described in section 114-88 shall reflect all changes to historic landmark designations as described in Article IV.
- ~~(d) The planning division shall develop and maintain a list of historic landmarks and site maps denoting their location. This list shall be periodically updated upon amendment, shall contain all city designated historic landmarks and be filed in the office of the city clerk. (See section 114-149, historic landmarks legal descriptions.)~~

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

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

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

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

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

- (a) The owner of a designated landmark, building, structure or a contributing building or structure within an historic district shall maintain those exterior portions of such buildings or structures which, if not maintained, may cause such buildings or structures to deteriorate or to become damaged or otherwise to produce or tend to produce, in the judgment of the historic preservation commission, a detrimental effect upon the character of the district as a whole or the life and character of the building or structure, including but not limited to:
  - (1) The deterioration of exterior walls or other vertical supports;
  - (2) The deterioration of roofs or other horizontal members;
  - (3) The deterioration of exterior chimneys;
  - (4) The deterioration or crumbling of exterior plaster or mortar;
  - (5) The ineffective waterproofing of exterior walls, roofs and foundations, including broken windows or doors.
- (b) A notification shall be sent by the historic preservation commission to the code enforcement division for action in the event that the historic preservation commission determines that a designated landmark, building or structure or a contributing building or structure within an historic district is in the course of being demolished by neglect. This process prevents a person from forcing the demolition of their building or structure by neglecting it and permitting damage to it by weather or vandalism.

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

When the historic preservation commission or community development department director, or designee, determines that a building, structure, or site located within a historic district or which has been designated a historic landmark pursuant to this section has been altered in violation of this section, the historic preservation commission or community development department director, or designee, may notify the code enforcement division to initiate code enforcement procedures. Any such property altered without obtaining a certificate of review requires an application to be

filed with the historic preservation commission for a certificate of review prior to any further work being completed.

**Secs. 114-9—114-40. - Reserved.**

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

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

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

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

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

### **Sec. 114-43. - Compensation.**

Members of the historic preservation commission shall serve without compensation.

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

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

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

The historic preservation commission shall meet at least four times each year, and a quorum shall consist of a majority of the members appointed but no less than three. Any member failing to attend four (4) meetings in any 12-month period shall be considered to have resigned the position and the vacancy shall be filled by city council as any other vacancy. The department responsible for the historic preservation commission shall monitor attendance of board members and shall notify the city clerk when a member's absences exceed three meetings in any 12-month period. At that time, the city clerk shall give notice to such board member that automatic removal will occur at such time as there are four absences of scheduled meetings.

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

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

- (1) Identify and recommend designation of local historic districts, local historic landmarks, and local historic objects.
- (2) Recommend to rescind the designation of local historic districts, local historic landmarks, and local historic objects.
- (3) Review new construction, alterations, relocations and demolitions within each historic district and of local historic landmarks.
- (4) Identify and nominate eligible properties to the National Register of Historic Places and administer applications for the National Register.
- (5) Notify appropriate local officials, owners of record, and applicants of proposed commission actions concerning a proposed nomination to the National Register.
- (6) Oversee the development and maintenance of a historic properties ~~maintain~~ a database and a system for survey and inventory of historic properties. See section 114-88 ~~The inventory shall be:~~
  - a. ~~Compatible with the state master site file.~~
  - b. ~~Kept current and regularly provided to the state historic preservation officer for incorporation in the state master site file.~~
- (7) Identify and make recommendations regarding city policies which have an effect upon historic resources.

- (8) Coordinate local activities with state and national preservation efforts, and review relevant legislation.
- (9) Further public awareness of the city's past and of preservation in general, especially during "Preservation Week." ~~The commission should schedule at least one workshop every year promoting preservation and city preservation programs.~~
- (10) Allow for public participation in the designation of historic districts and historic landmarks, including the process of recommending properties for nomination to the National Register.
- (11) Inform the public of the commission's activities and of preservation needs in the community.
- (12) Adopt rules of procedures, and assure their availability to the general public.
- (13) Make recommendations to the city council concerning the acquisition of development rights, facade easements, and the imposition of other restrictions and the negotiation of contracts for the purpose of historic preservation.
- (14) Evaluate and make recommendations to city council regarding decisions by other public agencies affecting the physical development and land use patterns affecting districts or landmarks.
- (15) ~~Recommend to the city council to a~~ Adopt supplemental design guidelines and amendments thereto, which will apply to proposed changes in the exterior appearance of individual local landmarks or buildings, structures, and/or sites in historic districts. The purpose of the design guidelines is to conserve and enhance the special aesthetic, historical and cultural character of the landmark or the historic district. The design guidelines ~~upon adoption by city council,~~ will supplement this chapter, ~~growth management~~ land development code and the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings. The design guidelines may be amended from time-to-time by ~~city council upon recommendation by~~ the historic preservation commission and may be published in the form of a manual. Design guidelines may govern any aspect of physical design, including but not limited to architectural and aesthetic character, site design, site layout, signage and landscape design.
- (16) Approve or deny applications for certificates of review for alteration, construction, demolition or relocation of landmarks, buildings, structures, sites or building within historic districts.
- (17) Recommend to the city council properties that qualify for the historic preservation ad valorem tax incentive program.
- (18) Recommend to the city council properties in historic districts that should be redesignated from "contributing" to "non-contributing" or from "non-contributing" to "contributing." See section 114-3.

**Secs. 114-47—114-70. - Reserved.**

### ARTICLE III. - CERTIFICATE OF REVIEW

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

- (a) **When required.** A certificate of review must be obtained:
- (1) Before altering, relocating, or demolishing any structure, and before any new construction, within a historic district that has been designated by the City of Fort Myers.
  - (2) Before altering, relocating, or demolishing any structure, and before any new construction, on the site of a landmark that has been designated by the City of Fort Myers.
- (b) **When not required.** A certificate of review is not required for the following activities, as described later in this article:
- (1) A certificate of review is not required for ordinary repair and maintenance that does not change the design, material, or appearance of exterior elements; see section 114-42(a)(1).
  - (2) The color of paint on painted surfaces may be changes without a certificate of review. However, see section 114-72(a)(2) for criteria regarding painting of unpainted surfaces including brick or masonry.
  - (3) During a state of emergency, certain required repairs may be made without a certificate of review; see section 114-81.
- (c) **Criteria.** Criteria for the issuance of certificates of review are found here and in sections 114-72 through 114-75.
- (1) These criteria include references to design guidelines that are contained in Chapters II and III of the manual, “*Design Guidelines for Historic Preservation*,” which may be revised from time to time, are adopted by reference as though set forth fully herein. Other chapters of this manual contains additional explanatory material about historic preservation in the City of Fort Myers.
  - (2) Design guidelines will be evaluated in a manner that takes into account technical feasibility and avoids creating unreasonable economic hardships.
  - (3) In historic districts, some criteria distinguish between properties that have been deemed “contributing” or “non-contributing” to the historic district, as those terms are defined in this Chapter and as shown on historic district maps in article IV. Criteria that do not make this distinction apply to both contributing and non-contributing properties.
  - (4) In addition to the criteria described in sections 114-72 through 114-75, consideration shall also be given to the U.S. Secretary of Interior’s *Standards for Rehabilitation*, which are highlighted as an appendix to the *Design Guidelines for Historic Preservation*.
  - (5) Additionally, although they are not mandatory criteria for issuance of certificates of review, consideration should be given to the technical advice found in the U.S. Secretary of Interior’s *Guidelines for Rehabilitation of Historic Buildings*, part of which is reprinted as an appendix to the *Design Guidelines for Historic Preservation*.

- (d) **Issuance by historic preservation commission.** Certificates of review are issued by the historic preservation commission at a public hearing.
- (e) **Administrative issuance for minor exterior work.** In certain cases, this code specifically authorizes administrative approval of certificates of review for minor exterior work that does not involve substantial alterations, additions, or demolition that could impair the integrity of a building or structure. When so authorized, administrative approval may be issued through a letter from the community development director, or their designee, for the applications that meet the same review criteria that would be used by the historic preservation commission. The community development director, or their designee, may also refer an application for minor exterior work to the historic preservation commission for a decision. Appeals of administrative decisions will be decided by the historic preservation commission. See Table 1. Approval Matrix.

<b>Table 1. Approval Matrix</b>				
<b>Action</b>	<b>Contributing</b>		<b>Non-Contributing</b>	
	<b>Admin.</b>	<b>COR</b>	<b>Admin.</b>	<b>COR</b>
<b>Additions</b>				
1. All Additions		X		X
<b>Canvas Awnings</b>				
1. On a primary or street facade		X	<del>X</del>	<u>X</u>
2. All other facades	X		X	
<b>Carports</b>				
1. Addition		X		X
2. Enclosure		X	X	
<b>Decks</b>				
1. Not visible from the right-of-way	X		X	
2. With a structure (trellis, etc.) and visible		X	X	
<b>Demolition</b>				
1. Non-historic additions				
<u>a. Attached</u>		<u>X</u>		<u>X</u>
<u>b. Free-standing</u>	<u>X</u>		<u>X</u>	
2. All others		X		X
<b>Doors, Garage Doors &amp; Windows</b>				
1. Change in material or style		X	X	
2. Change in opening greater than 10% of existing opening on the primary or street facade		X		X

3. Change in opening greater than 10% of existing opening on a secondary or non-street facade		X	X	
<b>Exterior Materials &amp; Appurtenances</b>				
1. Siding		X	X	
2. Trim/Fascia		X	X	
3. Gutters				
a. Visible from street		X	X	
b. Not visible from street	X		X	
4. Lighting		X	X	
5. Mechanical Systems				
a. Impact to structure		X	X	
b. No impact to structure	X		X	
<u>6</u> Restoration with documentation	X		X	
<u>7. Handicapped Access</u>				
<u>a. Visible from street</u>		<u>X</u>	<u>X</u>	
<u>b. Not visible from street</u>		<u>X</u>	<u>X</u>	
<b>Hardscape</b>				
1. Driveways (any material)		X		X
2. Sidewalks		X	X	
3. Patios				
a. Visible from street		X		X
b. Not visible from street	X		X	
4. Pool & Pool decks				
a. Visible from street		X	X	
b. Not visible from street	X		X	
5. Landscape element	X		X	
<b>Porches</b>				
1. Open an enclosed porch				
a. With documentation	X		X	
b. Without documentation		X	X	
2. Porch enclosure on main facade		X		X
3. Porch enclosure on secondary facade		X	X	
<b>Roof</b>				
1. Change in material		X	X	

2. Change in shape		X		X
3. Alteration to character elements (skylights, etc.)		X	X	
<b>Shutters and Storm Protection</b>				
1. Removable (Temporary)	X		X	
2. Permanent & visible		X		X
3. Permanent & not visible	X		X	
<b>Site Elements</b>				
1. Fencing/Pergolas/Arbors				
a. <u>Wood and metal fences, excluding chainlink</u> <del>Visible from the street</del> <del>(running perpendicular to the street, may include</del> <del>side and rear yards)</del>	X		X	
b. <u>All other fence types (including vinyl and</u> <u>chainlink)</u> <del>Not visible from the street</del> <del>(may include side and rear yards)</del>		X		X
2. Storage shed				
a. Custom designed	X		X	
b. Pre-Fabricated		X	X	
<b>Signs</b>				
1. <u>New signs</u>		<u>X</u>		<u>X</u>
2. <u>Sign face change, no change to size or shape</u>	<u>X</u>		<u>X</u>	
3. <u>Blade signs (under canopy)</u>	<u>X</u>		<u>X</u>	

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

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

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

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

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

- (2) **Painting.** Paint colors are a matter of personal taste and are easily changed, so color changes do not require a certificate of review. Painting of unpainted brick or masonry is rarely acceptable. Guidance on painting can be found in Chapter II, section A.2. *Design Guidelines for Historic Properties.*
  - (3) **Replacement windows and doors.** Replacement windows and doors should respect the original character of historic buildings by retaining the original configuration and details of windows and doors. Guidance on replacing windows and doors can be found in Chapter II, section A.3. *Design Guidelines for Historic Properties.*
  - (4) **Substitute siding and trim.** Siding and trim should not be covered by materials that would change the building's character. Guidance can be found in Chapter II, section A.4. *Design Guidelines for Historic Properties.*
  - (5) **Replacement roofing.** Roofs should be maintained in their original styles and materials except when minor changes would not alter the overall character of the building. Guidance can be found in Chapter II, section A.5. *Design Guidelines for Historic Properties.*
  - (6) **Porches.** Porches should retain their original configuration and materials. Guidance can be found in Chapter II, section A.6. *Design Guidelines for Historic Properties.*
  - (7) **Fences.** Fences in front yards make a strong visual contribution to the historic streetscape and should not be removed or made incompatible with historic styles. Guidance can be found in Chapter II, section A.7. *Design Guidelines for Historic Properties.*
  - (8) **Handicapped access.** Handicapped access should be provided in ways that maintain the character of the building and site. Guidance can be found in Chapter II, section A.8. *Design Guidelines for Historic Properties.*
  - (9) **Accessory buildings.** Changes to accessory buildings such as garages and carports should avoid negative impacts on historic streetscapes. Guidance can be found in Chapter II, section A.9. *Design Guidelines for Historic Properties.*
- (b) **Additional criteria for commercial and mixed-use buildings.**
- (1) **Replacement storefronts.** Storefronts need to evolve to meet current economic and code requirements but must respect the historic character of commercial districts and mixed-use buildings. Guidance can be found in Chapter III, section B.1. *Design Guidelines for Historic Properties.*
  - (2) **Signs.** Signs should not damage or conceal architectural details or overwhelm the pedestrian scale of historic districts. Guidance can be found in Chapter III, section B.2. *Design Guidelines for Historic Properties.*

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

- (1) **Additions.** Additions to a building should not visually overpower the original building, compromise its historic character, or destroy significant features or materials. Guidance can be found in Chapter III, section C. *Design Guidelines for Historic Properties.*

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

Before an existing building may be relocated, evaluation of an application for a certificate of review will consider the guidelines found in Chapter III, section A. *Design Guidelines for Historic Properties.*

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

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

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

- (a) **Dangerous Conditions.** The Building Official may determine a dangerous condition that requires immediate demolition. A certificate of review may be approved administratively in this situation.
- (b) **Economic hardship.** A property owner may apply for a designation of unreasonable economic hardship when requesting a certificate of review for demolition.
- (c) **Insignificant accessory buildings.** A certificate of review may be approved administratively for the demolition of insignificant accessory buildings.
- (d) **Non-contributing buildings or structures.** A non-contributing building may be demolished to allow its replacement with a building that meets the criteria for new buildings in historic districts (see section 114-75).
- (e) **Contributing buildings or structures.** In the rare cases where a contributing building is allowed to be demolished, appropriate mitigation measures will be required.

- (f) **Additional criteria.** In addition to the guidelines found in Chapter III, section B, *Design Guidelines for Historic Properties*, the following criteria will be considered when reviewing a certificate of review for demolition:
1. The historic, scenic or architectural significance of the building structures or site shall be considered.
  2. The importance of the building or structure to the historic district shall be considered.
  3. The difficulty or the impossibility of reproducing such a building or structure because of its design, texture, material, detail or unique location shall be considered.
  4. The future utilization of the site, including any replacement buildings, structures or landscape, shall be considered.
  5. Whether the building or structure is one of the last remaining examples of its kind in the neighborhood, the county or the region shall be considered.
  6. The reasonable economic return of the building or structure shall be considered.
  7. Upon determination by the commission that demolition or removal of a building or structure is justified, relocation of the building or structure as a mitigating action should be considered.
  8. Upon determination by the commission that relocation of the building or structure is impractical, an archival recording, including photographic documentation, shall be made and copies of said material(s) provided to the Community Development Department for archival purposes.

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

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

- (a) **Height.** The height of new buildings should be reasonably similar to historic buildings on the same of block or historic district.
- (b) **Proportion.** New buildings should be similar to nearby buildings in proportion of width to height.
- (c) **Rhythm.** The building's façade should maintain the rhythm of the historic streetscape. Entrances should be oriented to the street, and blank walls or garage doors should never dominate a prominent (street facing) façade.
- (d) **Setbacks.** The distance from the building to the front property line should be similar to adjacent and nearby buildings, even if that distance is greater than required by current city codes.
- (e) **Materials and texture.** New buildings should be compatible with adjacent and nearby buildings on the block as to materials and texture. Building materials and textures should be those used historically for all major surfaces.
- (f) **Roof shapes.** Roofs for new buildings should be similar to nearby buildings or in the historic district.
- (g) **Architectural details and decorative features.** The design of new buildings should take their cues from the basic forms and decorative elements of block or

- historic district.
- (h) **Styles.** Contemporary styles should be harmonious in form, material, and scale with the character of the block or historic district.
  - (i) **Windows.** Window size and proportions should be similar to those used historically. To create larger surfaces of glass, consider combining several standard windows in a row. Mullions (muttons or grills) should be applied to the exterior of the window, sandwiching mullions between glass panes is highly discouraged.
  - (j) **Infrastructure.** Infrastructure upgrades should enhance rather than detract from the character of historic district. Changes can dramatically affect the character of streets, alleys, sidewalks, street trees, on-street parking, lighting, etc.

**Sec. 114-71. – When required.–**

- (a) ~~No building, relocation or demolition permit shall be issued for a designated landmark, landmark site, building or structure located within a designated historic district, and no historic landmark shall be altered, relocated, constructed or demolished, until an application for a certificate of review has been approved. Applications for certificates of review shall be evaluated in accordance with the criteria for contributing and new construction/noncontributing properties as specified herein.–~~
- (b) ~~A certificate of review shall not be required for repair and maintenance, in-kind replacement of materials or painting historic materials, which are currently painted (i.e. wood, brick or stucco).–~~
- (c) ~~Activities, such as, but not limited to, changes to or installation of items listed below to be performed on or in connection with any building, structure, site, listed on the local register shall require a certificate of review, except as delineated in section 114-73 Administrative review and determination for minor exterior work, Table 1. Approval Matrix.–~~
  - (1) ~~Awnings or canopies.–~~
  - (2) ~~Decks.–~~
  - (3) ~~Doors, door frames, storefronts.–~~
  - (4) ~~Exterior walls.–~~
  - (5) ~~Fencing.–~~
  - (6) ~~Fire escapes, exterior stairs, exterior elevators, and ramps for the handicapped.–~~
  - (7) ~~Painting of historically unpainted surfaces including wood, stone, brick, terra cotta, concrete and marble.–~~
  - (8) ~~Porch and balcony railings or decorative detailing.–~~
  - (9) ~~Roofs.–~~
  - (10) ~~Siding.–~~
  - (11) ~~Skylights.–~~
  - (12) ~~Screen windows and doors.–~~
  - (13) ~~Windows and window frames.–~~

~~(14) Parapet wall.~~

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

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

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

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

**Sec. 114-76 - 114-80. - Reserved.**

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

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

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

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

- (1) Underground utilities, except where archaeological finds or sites are uncovered;
- (2) Extension or upgrading of service to customers for equipment such as meters, valves and cleanouts;
- (3) Changes in type or amount of mechanical equipment such as interfaces, transformers or traffic control devices on existing overhead lines, poles or ground-mounted installations;
- (4) Deletion or replacement of poles of standard material and height, not to exceed 45 feet;
- (5) Addition or deletion of fire hydrants;
- (6) Routine replacement of street and regulatory signs;
- (7) Any upgrading of facilities to comply with National Electrical Safety Code.
- (8) Addition of equipment on existing lines or poles;
- (9) Replacement of existing overhead lines, poles or ground-mounted installation;
- (10) Street paving, sidewalk and curb and gutter replacement following consultation with historic preservation commission;
- (11) Stormwater drainage repair;
- (12) Routine replacement of pavement markings;
- (13) Replacement of existing lift stations.

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

- (a) The historic preservation commission shall adopt rules prescribing the procedure for making and reviewing applications for a certificate of review and the form and content thereof.
- (b) The commission shall, within 60 days of receipt of a complete application package by the planning division, hold a public hearing upon each application for a permit under this chapter article. Notice of the hearing shall be posted on the property at least seven days prior to the date of the hearing. The notice shall specify the time and place of the hearing and the matter to be considered.
- (c) The commission shall use the criteria set forth in this chapter article to review completed applications. After a complete review of the application and fulfilling the public notice and hearing requirements of this chapter article, the commission shall take one of the following actions:
  - (1) Grant the certificate of review with an immediate effective date;
  - (2) Grant the certificate of review with changes or modification to building plans and specifications deemed necessary to satisfy the criteria for issuance of a certificate as set forth herein;
  - (3) Grant the certificate of review with a deferred effective date which date shall not exceed one year from the date of issuance;
  - (4) Deny the certificate of review, accompanied by a written statement expressing findings of fact and rationale supporting the denial; or

- (5) Grant the certificate of review if the commission finds that the property cannot be put to a reasonable beneficial use without the approval of the proposed work; in the case of income-producing property, the commission shall, before making its decision, determine whether the applicant can obtain a reasonable return from the property without the approval of the proposed work.
- (d) The certificate of review shall be in writing and shall describe the project for which issued and the type of work to be done. A copy of the certificate of review shall be provided to the applicant within ten working days of the public hearing.

**Sec. 114-84. - Application requiring a rezoning.**

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

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

- (a) **Resubmittal of denied permit application.** The application for a permit under this article, if denied by the historic preservation commission, may not be resubmitted for a period of six months, except upon written request indicating incorporation of changes in plans and specifications as may have been recommended by the commission.
- (b) **Appeals.** A person may appeal a decision made by the historic preservation commission as follows:
  - (1) Any owner of a building, structure or site affected by this chapter may appeal a decision of the historic preservation commission by filing a written notice of appeal within 30 days of the date of the decision of the historic preservation commission was rendered. The notice of appeal shall be filed with the city attorney, and copies provided to the city clerk and the planning manager, and shall state with specificity the decision being appealed, the grounds for the appeal and a summary of the relief sought.
  - (2) Upon receipt of a complete notice of appeal, the city council shall be notified of the hearing for the appeal.
  - (3) The community development department shall send written notice to all property owners within 300 feet of the property filing the notice of appeal 15 days prior to the hearing for the appeal. Mailing labels are to be provided by the appellant.
  - (4) Ex parte communication is not permitted during the appeals process.
  - (5) The city council may request employees of the city with personal knowledge of relevant facts to attend hearings and produce relevant documents.

- (6) The city council, in reaching a decision, must consider criteria, as well as any other issues that are pertinent and reasonable, as follows:
  - a. Whether appeal is of a nature properly brought for decision, or whether there is an established procedure for handling the request other than through the appeal process.
  - b. The intent of this chapter applied or interpreted.
  - c. The effect the ruling will have when applied generally to this chapter.
  - d. Staff recommendations, the testimony of the appellant and testimony of the general public must also be considered.
- (7) Cases under this section will be handled as a de novo proceeding and all parties will be entitled to present evidence and testimony as to any law or fact supporting their position in the case.
- (8) Before granting any appeal, the city council must find that an error was made in the order, requirement, decision, interpretation, determination or action of the historic preservation commission.
- (9) The decision of the city council will be final. Judicial review of a final decision of the city council will be in circuit court. The review may only be obtained through filing a petition for writ of certiorari pursuant to the Florida Rules of Appellate Procedure. The petition must be filed within 30 calendar days after the decision has been rendered.
- (10) A decision is rendered as of the date when it is approved by city council.

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

The certificate of review shall be effective from the time of approval by the historic preservation commission until the expiration of the building permit obtained for the specified improvements. A certificate of review is effective for two (2) years unless there is an active building permit.

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

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

- ~~(1) The criteria for alterations to existing contributing property shall apply in the case of exterior rehabilitation, addition or alteration to existing contributing property and shall be as follows:-~~
  - ~~a. Issuance of a certificate of review for a contributing resource shall be the design guidelines adopted from time to time by city council to supplement this chapter of the growth management code and the U.S. Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, 36 CFR 67 (Revised 1990), as such standards may be amended, renumbered or replaced, which are hereby adopted by reference as though set forth fully in this article. The Secretary of the Interior's Standards shall take precedence over any conflicting additional criteria as may be enumerated below.~~

- ~~b. An exterior addition to a historic building may seem essential; however, such new additions should be avoided, if possible, and considered only after it has been determined that the needs of the owner cannot be met by altering secondary or noncharacter defining spaces. If an exterior addition is the only viable alternative, it should be designed and constructed to be clearly differentiated from the historic building so that the character-defining features are not radically changed, obscured, damaged or destroyed.~~
- ~~e. Alterations shall not degrade the architectural quality or historic character of the building, structure or site, but shall, to the extent possible, maintain or restore the historic design and conditions. To the extent possible, significant historic materials and features shall be retained and repaired. If beyond repair, such materials and features should be replaced in kind, if possible. In the event that it is not possible or economically feasible to replace deteriorated materials or features in kind, replacement shall duplicate the appearance of the original material, as close as possible. Restoration of missing features shall be based, to the extent possible, on site specific historical documentation or physical evidence. Conjectural design for missing features shall be discouraged.~~
- ~~(2) New signs on existing buildings shall be consistent with the historic character of the building and the environment in which it is located. New signage should be designed, scaled and placed in the same manner as historic signage on the building.~~
- ~~(3) New construction and remodeling of noncontributing property. The criteria shall apply in the case of new construction or exterior rehabilitation of or alterations to existing noncontributing property within a historic district as follows:
  - ~~a. New construction.
    - ~~1. Contemporary styles should be harmonious in form, material, and scale with the character of the block or historic district.~~
    - ~~2. The facade of new buildings should be aligned with the historic setbacks of the block or historic district.~~
    - ~~3. New buildings should appear similar in mass and scale with historic structures in the block or surrounding area.~~
    - ~~4. Building and roof form should match those used historically.~~
    - ~~5. Building materials should be those used historically for all major surfaces.~~
    - ~~6. Window sizes and proportions should be similar to those used historically. To create larger surfaces of glass, consider combining several standard windows in a row.~~~~~~
- ~~(4) Rehabilitation and alteration of noncontributing property.
  - ~~a. Additions should be compatible with the size, scale, color, material, and character of the building and its environment. Additions may include porches and bay windows as well as entire wings or rooms.~~~~

- ~~b. Additions should be positioned so they do not alter the historic rhythm of building fronts.~~
- ~~(5) Building site and landscaping. The site and landscape plan shall be sensitive to the individual building, its occupants and needs, and shall be visually compatible with the buildings and environment with which it is visually related, including, but not limited to site orientation, setbacks, transitional moving elements, and vegetative or other screening.~~
- ~~(6) Demolition. The criteria shall apply in the case of demolition of a designated landmark or a building/structure located within a historic district as follows:
  - ~~a. The historic, scenic or architectural significance of the building structures or site shall be considered.~~
  - ~~b. The importance of the building or structure to the historic district shall be considered.~~
  - ~~c. The difficulty or the impossibility of reproducing such a building or structure because of its design, texture, material, detail or unique location shall be considered.~~
  - ~~d. The future utilization of the site, including any replacement buildings, structures or landscape, shall be considered.~~
  - ~~e. Whether the building or structure is one of the last remaining examples of its kind in the neighborhood, the county or the region shall be considered.~~
  - ~~f. The reasonable economic return of the building or structure shall be considered.~~
  - ~~g. Upon determination by the commission that demolition or removal of a building or structure is justified, relocation of the building or structure as a mitigating action should be considered.~~
  - ~~h. Upon determination by the commission that relocation of the building or structure is impractical, an archival recording, including photographic documentation, shall be made.~~~~
- ~~(7) Reconstruction. The reconstruction of a building or structure damaged by fire, storm, or other act of God shall be reviewed by the commission according to the criteria in subsection (a) of this section. Totally or substantially new construction, regardless of reason, shall be reviewed according to the criteria set forth in subsection (b) of this section.~~
- ~~(8) Relocation.
  - ~~a. Criteria shall apply in the case of relocation of an existing designated landmark or building/structure located within a historic district as follows:~~
  - ~~b. The historic character and aesthetic interest the building or structure contributes to its present location shall be considered.~~
  - ~~c. The future utilization of the site and the effect on the character of the surrounding district shall be considered.~~
  - ~~d. The ability to move the building or structure without significant damage to the building or structure shall be considered.~~~~

- ~~e. The compatibility of the proposed relocation area with the historical and architectural character of the building or structure shall be considered.~~

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

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

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

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

- (1) The boundaries of designated historic districts.
- (2) Which lots in each historic district have contributing structures, or only non-contributing structures, or no structures on the lot.
- (3) Designated historic landmarks and landmark sites.
- (4) Properties and districts listed on the National Register of Historic Places.
- (5) Properties listed on the Florida Master Site File.

~~Historic buildings, structures, sites, objects and contributing buildings within a historic district shall be listed as such in the historic properties database maintained by community development services. A building not listed or listed as noncontributing on the historic properties database shall not preclude its classification or review pursuant to the certificate of review process. Buildings and structures that are located in a locally designated historic district or have been identified but have not been individually designated historic landmarks pursuant to section 114-4 and listed in the Florida Master Site File shall also be listed in the city historic properties database.~~

~~Florida Master Site File properties are not necessarily designated as historic landmarks or located within historic districts but shall be denoted as eligible properties for listing.~~

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

## **ARTICLE IV. - TAX EXEMPTION FOR REHABILITATING HISTORIC PROPERTIES**

### **Sec. 114-121. - Purpose.**

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

- (a) Provide a positive financial incentive for designation of city landmarks and historic districts;
- (b) Encourage more restoration, rehabilitation and renovation of designated historic structures in the city;
- (c) Stabilize and improve property values, and enhance the property tax base of the city, by encouraging improvement of designated historic structures; and
- (d) Improve the appearance of designated historic landmarks and historic districts in the city therefore enhancing their appeal as places to live, to work or to visit.

### **Sec. 114-122. - Qualification.**

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

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

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

### **Sec. 114-124. - Application.**

- (a) Application for the historic rehabilitation tax exemption shall be made on a form approved by the historic preservation commission and provided by the city. Application forms, preservation exemption covenants and summaries of deadlines and application procedures shall be maintained by the planning division and shall be made available to the general public.
- (b) A final application, in proper form, shall be submitted upon completion of the qualifying improvement. Every final application shall be accompanied by a copy of the preservation exemption covenant signed by every property owner of record.

### **Sec. 114-125. - Applicant.**

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

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

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

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

- (a) The historic preservation commission shall hold a public hearing within 60 days of the application and determine whether:
  - (1) The proposed work is a qualifying improvement; and
  - (2) The work as proposed is in compliance with the review standards contained in section 114-136.

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

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

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

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

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

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

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

- (a) The final application shall be accompanied by documentation that the total cost of the work qualifies it as a qualifying improvement. Appropriate documentation

may include paid contractor's bills, canceled checks, an approved building permit application listing cost of work to be performed or other information as determined to be sufficient by the planning manager.

- (b) The planning manager shall contact the applicant within seven days following submission of a properly completed final application. The planning manager shall indicate to the applicant whether:
  - (1) The completed work is a qualifying improvement;
  - (2) The work as completed is in compliance with the review standards contained in sections 114-127 and 114-136; and
  - (3) The completed work is consistent with the approved preconstruction application.

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

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

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

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

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

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

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

No certificate of occupancy or building permit or other required permit, shall be issued by the city until the required certificate of review or preconstruction application has been approved by the historic preservation commission and all appeal proceedings

have been completed, or until the applicant withdraws the tax exemption application in writing.

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

- (a) Within thirty (30) five days following receipt of notice that the planning manager has denied a final administrative approval application, the applicant may file an appeal from the determination to the historic preservation commission, on a form provided by the city, that is filed with the City Attorney. Included with the form shall be a copy of any recommendations made by the planning manager.
- (b) The historic preservation commission shall review the appeal in substantially the same manner as in a certificate of review as specified in section 114-76. A public hearing shall be held and notice provided the applicant. The standards for review contained in section 114-136 shall be the criteria applied by the historic preservation commission in hearing the appeal.

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

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

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

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

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

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

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

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

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

- (a) Within ten working days of any action regarding a preconstruction application or final application the planning manager shall provide written notice to the applicant. Each written notice shall include reasons for the decision and any appropriate recommendations.
- (b) A notice of final approval shall indicate to the applicant that the county property appraiser will be instructed by the planning manager to provide the historic rehabilitation tax exemption upon proper submission of evidence that the signed historic preservation exemption covenant has been properly recorded.

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

Within ~~three~~ ten (10) working days following receipt by the planning manager from the applicant of a certified copy of the recorded preservation exemption covenant, the planning manager shall transmit a copy of the approved final application to the county property appraiser for exemption of the cost of the substantial improvement project from ad valorem taxation, with instructions that the property appraiser provide the historic

rehabilitation tax exemption to the applicant. A copy of the letter of transmittal to the county property appraiser shall be sent to the applicant.

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

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

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

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

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

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

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

The notice of revocation shall include a statement that a penalty equal to the total amount of taxes that would have been due in March in each of the previous years in which the historic preservation exemption covenant was in effect had the property not received the exemption, less the total amount of taxes actually paid in those years, plus interest on the difference calculated as provided in F.S. § 212.12, shall be imposed by the county tax collector for violation of the terms, conditions and standards of the historic preservation exemption covenant.

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

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

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

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

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

The planning manager shall prepare an annual report to the city council concerning the historic rehabilitation tax exemption program, when an application for the tax exemption has been granted. The report shall be filed in January of each calendar year, as applicable, and shall summarize activities related to the program during the previous calendar year. The information contained in the annual report shall include, but not be limited to, the following items:

- (a) A list of the properties for which preconstruction applications and final applications were made during the preceding year.
- (b) Explanation of the disposition of each application.
- (c) The total expenditure on each approved qualifying improvement during the preceding year.
- (d) The total number of properties currently participating in the historic rehabilitation tax exemption program as of the end of the previous year.
- (e) The total expenditure on all qualifying improvements currently participating in the program.

**Secs. 114-148 – 114-150. – Reserved**

**ARTICLE V. – LOCAL HISTORIC DESIGNATIONS**

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

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

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

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

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

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

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

Map 114-154 indicates the precise boundary of the Dean Park Historic District and identifies which lots in that district contain contributing structures, non-

contributing structure, or no structures. This district was designated in 1997 by Ordinance No. 2802. In 2003, Ordinance No. 3147 reduced the size of this district and identified lots with contributing structures. Lots with contributing structures were identified on Map 114-154 in 2017.

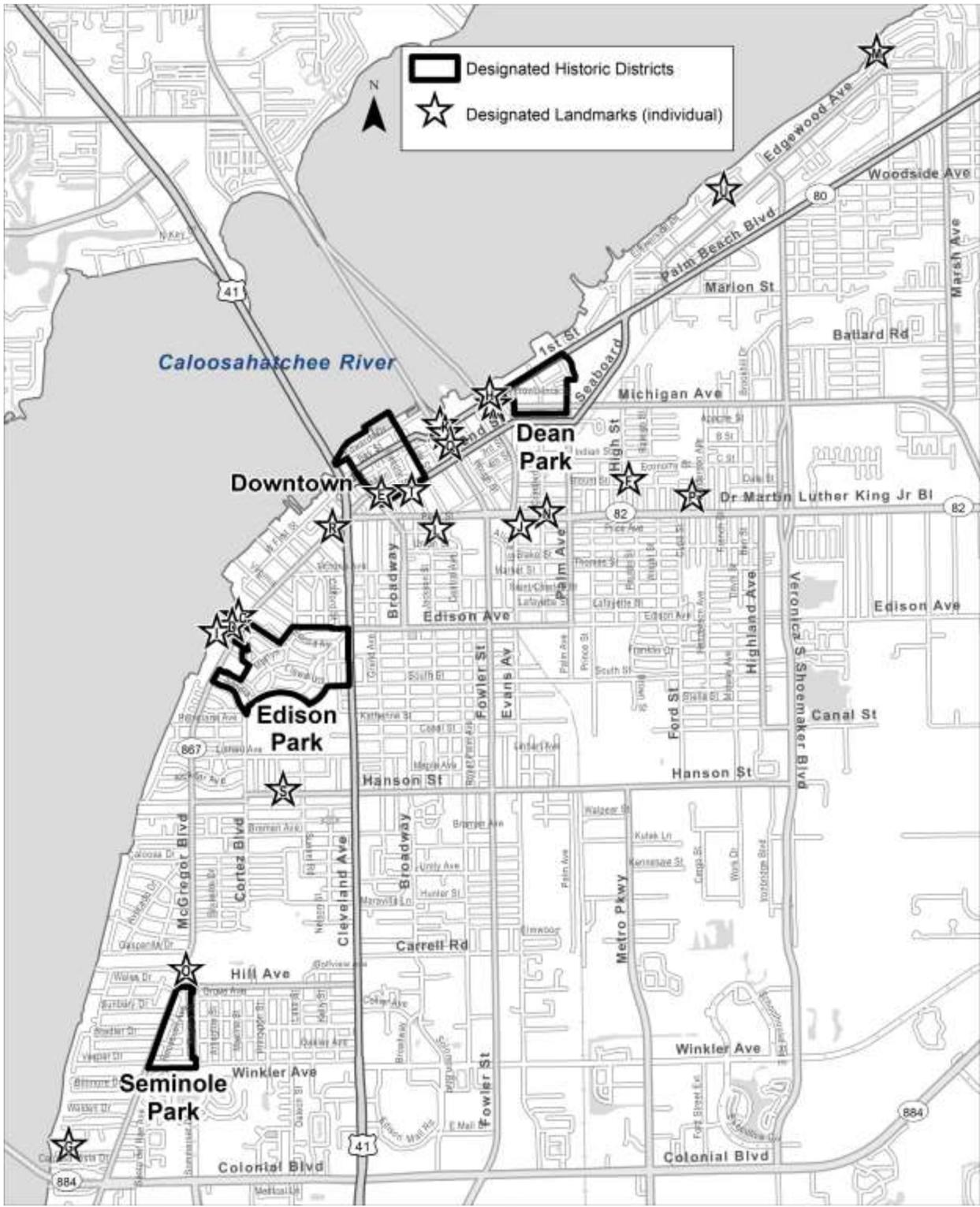
**Sec. 114-155. – Map of Downtown Historic District.**

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

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

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

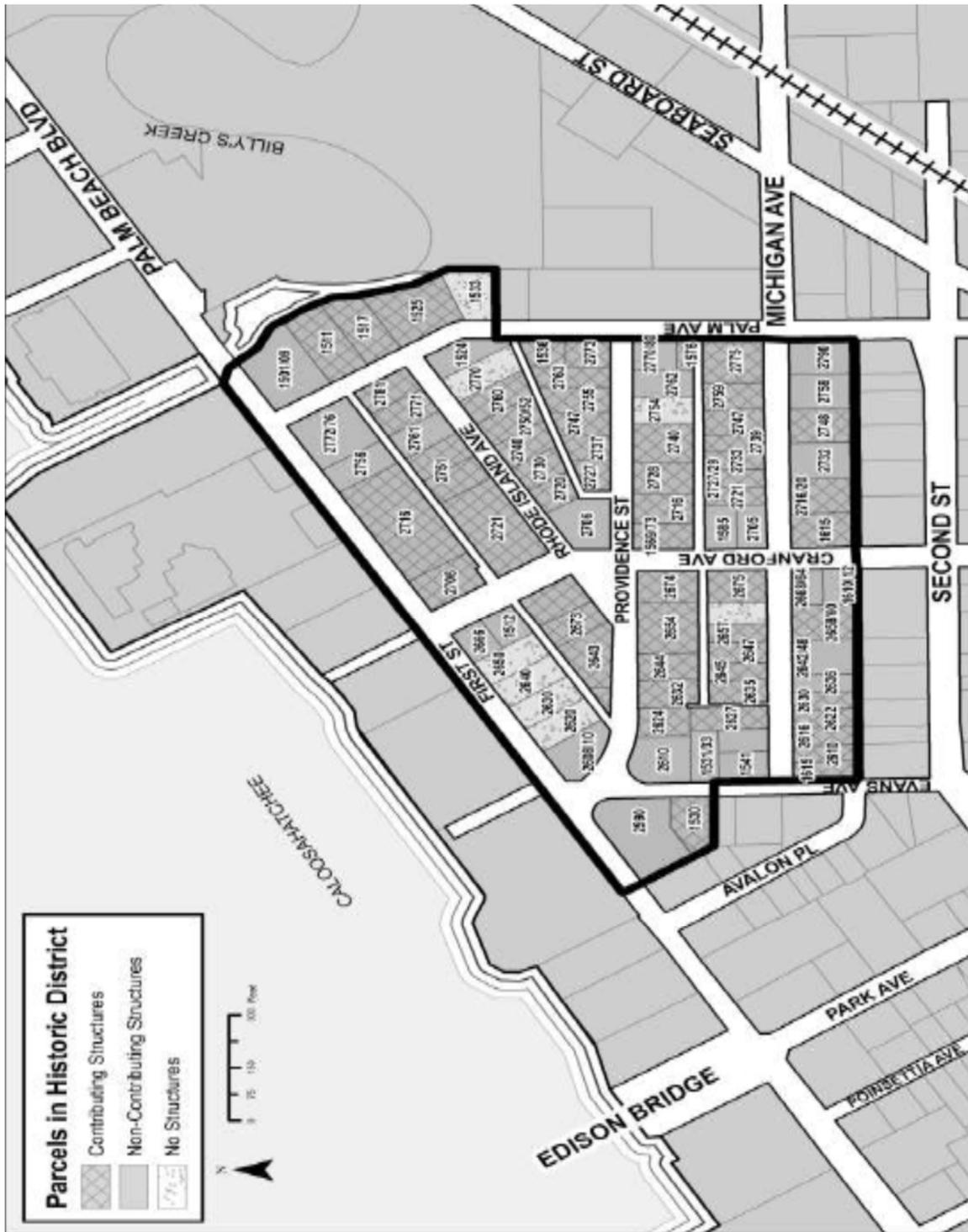
**Map 114-152 – Citywide map of historic designations**



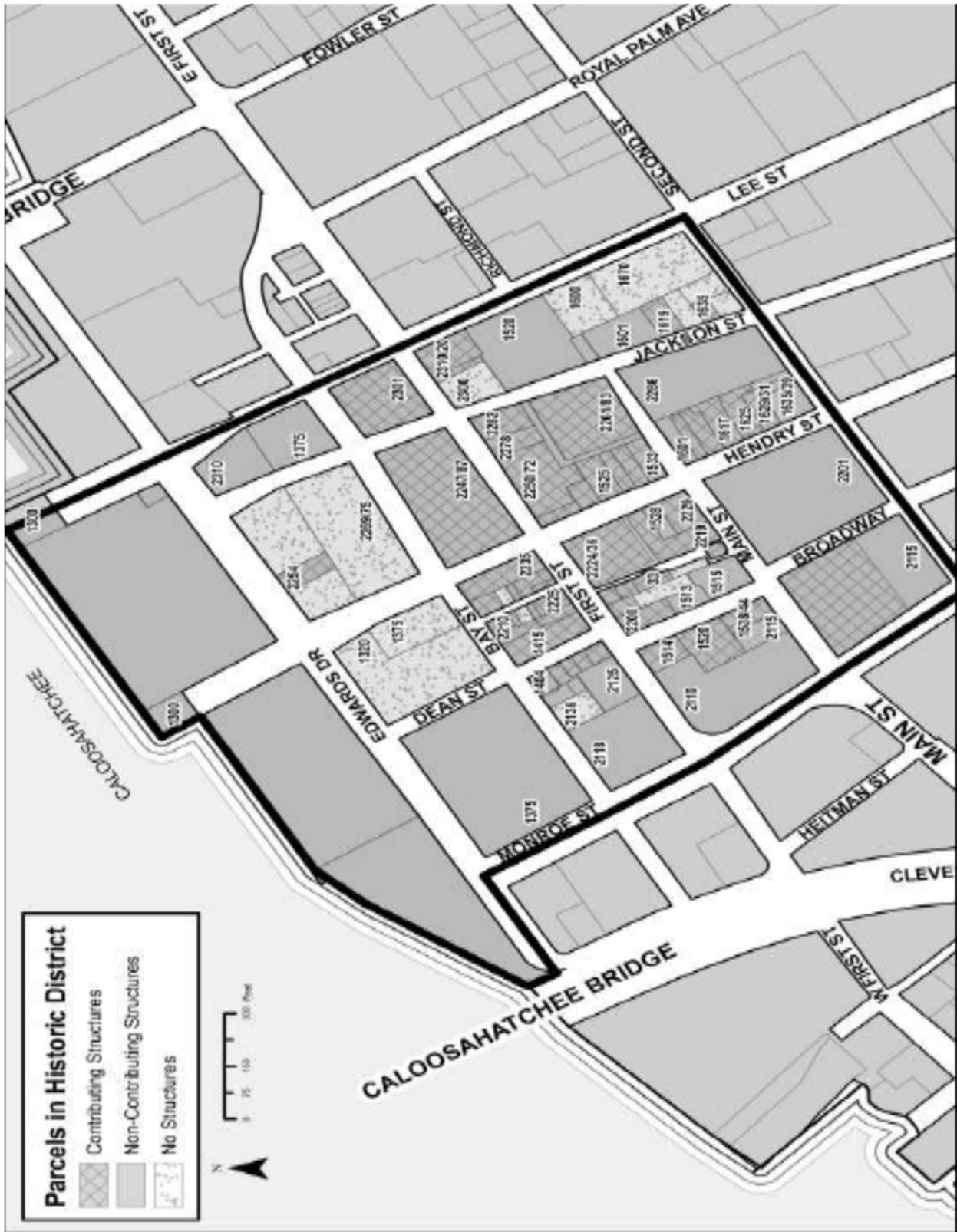
**Map 114-153 – Edison Park Historic District**



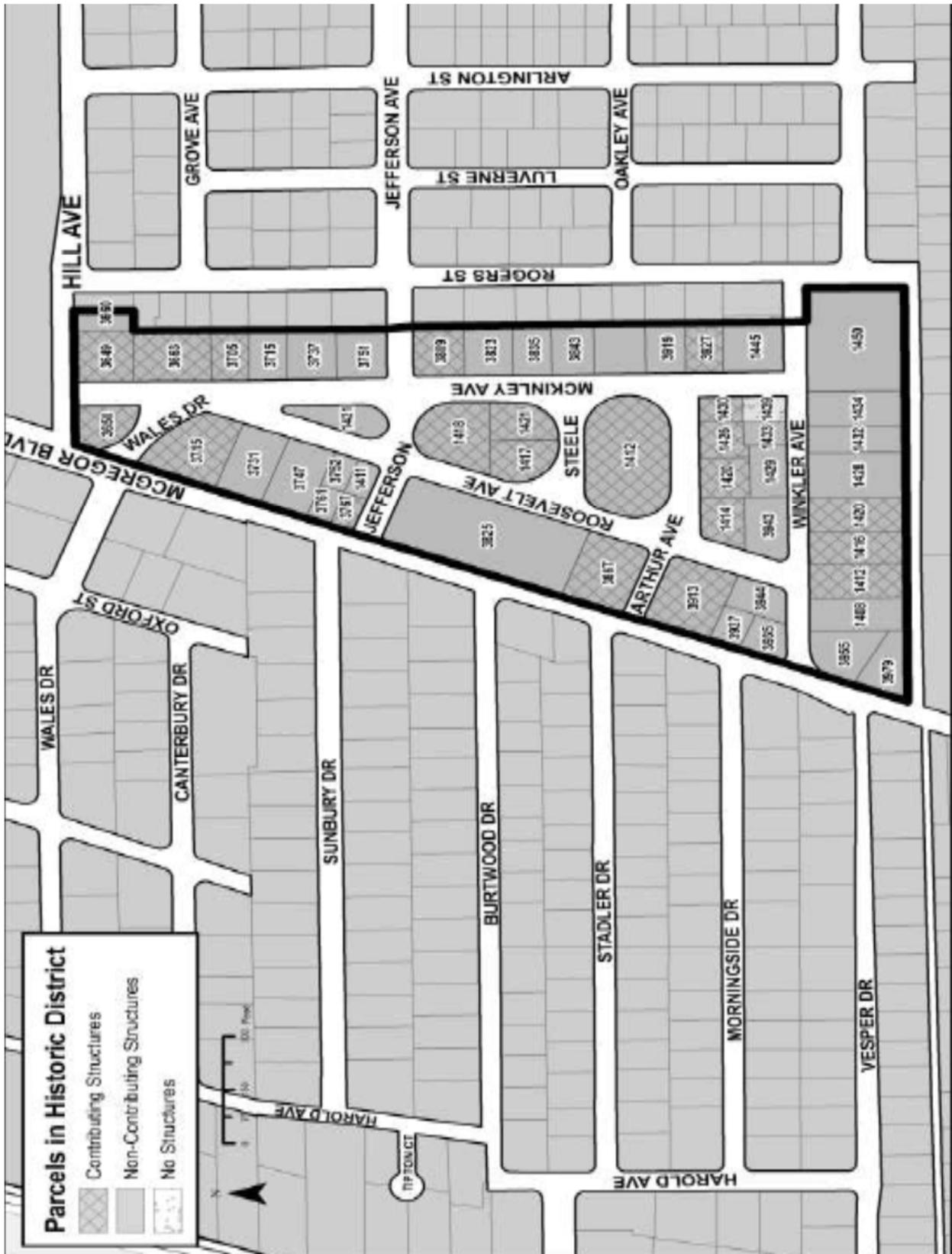
**Map 114-154 – Dean Park Historic District**



**Map 114-155 – Downtown Historic District**



**Map 114-156 – Seminole Park Historic District**



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

(a) **Edison Park Historic District**, more particularly described as follows:

A portion of land in Section 23, Township 44, Range 24, City of Fort Myers, County of Lee, Florida, Beginning at a point at the intersection of the north right-of-way line of Edison Avenue with the west right-of-way line of Cleveland Avenue; thence south along the west right-of-way line of said Cleveland Avenue to a point at the intersection of the west right-of-way line of Cleveland Avenue with the southerly right-of-way line of South Street; thence continue in a westerly direction to the intersection of southerly right-of-way line of South Street and the southeasterly right-of-way line of Newton Avenue; thence continue southwesterly along the southeasterly right-of-way line of Newton Avenue to the intersection with the southerly right-of-way of Oak Lane; thence westerly along the southerly right-of-way of Oak Lane to the intersection with the southerly right-of-way line of Cortez Boulevard; thence continue westerly along the southerly right-of-way line of Cortez Boulevard to the intersection with the centerline of Manuels Branch; thence westerly and northerly along said Manuels Branch to a point at the intersection of the centerline of Manuels Branch with the easterly right-of-way line of McGregor Boulevard; thence northeasterly along the easterly right-of-way line of McGregor Boulevard to a point at the intersection of the easterly right-of-way line of McGregor Boulevard with the northerly boundary line of Edison Park, a subdivision filed in Official Record Book 7 at Page 28 of the Public Records of Lee County, Florida; excluding the Covenant Presbyterian Church property as recorded at Official Record Book 2592 at Pages 1901 and 1904, as found in the Official Records of Lee County; thence along said northerly boundary line of said Edison Park Subdivision for a distance of 931 feet, more or less, to a point; thence along the northeasterly line of Edison Park Subdivision for a distance of 425 feet, more or less to a point, said point being the intersection of the northeasterly line of Edison Park with the north right-of-way line of Edison Avenue; thence along said north right-of-way line of Edison Avenue to the Point of Beginning of the lands herein described.

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

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

Beginning at a point where the west right-of-way line of Palm Avenue intersects the north right-of-way line of a ten-foot alley bisecting Block 1, Evans Addition, as recorded in Plat Book 1 at Page 29, Public Records of Lee County, Florida, run north along said west right-of-way line of Palm Avenue for 830 feet, more or less, thence run east perpendicular to said west right-of-way line of Palm Avenue for 50 feet, more or less, to the southwest corner of parcel 13-44-24-P2-0020C.0060, as described in Official Record Book 2445 at Page 1169, said public records; thence run east along the south boundary of said parcel to the west bank of Billy's Creek; thence run along the west bank of Billy's Creek to the northerly right-of-way line of East First Street; thence run southwesterly along the northerly right-of-way of East First Street to a point 60 feet northwesterly of the northeast corner of Parcel 13-44-24-P2-02700.0100, as described in Official Record Book 1903 at Page 4145, said public records; thence run southeasterly, parallel with Avalon

~~Court, a distance of 249.75 feet to the southwest corner of Parcel 13-44-24-P2-00500.0060, as described in Official Record Book 1823 at Page 3823, said public records; thence run east along the south boundary of said parcel for 145 feet MOL, Caloosahatchee River; thence run southwesterly along the south shore of the Caloosahatchee River to a point 405 feet southwesterly of the west right-of-way line of Shelton Court; thence run southeasterly and parallel to the west right-of-way line of said Shelton to a point on the south right-of-way line of East First Street (SR 82); thence run northeasterly along said south right-of-way line of East First Street to a point 100 feet northeast of the east right-of-way line of Avalon Court; thence run southeasterly, parallel with Avalon Court, a distance of 189.75 feet to the southwest corner of parcel 13 44 24 P2-00500.0060, as described in Official Record Book 1823 at Page 3823, said public records; thence run east along the south boundary of said parcel for 145 feet, more or less, to the west right-of-way line of Evans Avenue; thence continue east 50 feet to a point on the east right-of-way line of Evans Avenue; thence run south along said east right-of-way line of Evans Avenue a distance of 330 feet, more or less, to the north right-of-way line of a ten-foot alley bisecting Block 2, Evans Addition, as recorded in Plat Book 1 at Page 29, said public records; thence run east along said north right-of-way line a distance of 600 feet, more or less, to the intersection of said north right-of-way line and the west right-of-way line of Cranford Avenue; thence continue east 50 feet along an extension of the north right-of-way line of the ten-foot alley bisecting Block 2 to a point of intersection with the east right-of-way line of Cranford Avenue; thence run east 600 feet, more or less, along the north right-of-way line of a 10 foot alley bisecting Block 1, Evans Addition, as recorded in Plat Book 1 at Page 29 said public records, to the west right-of-way line of Palm Avenue and the Point of Beginning.~~

(c) **Fort Myers Downtown Historic District**, more particularly described as follows:

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

Beginning at the intersection of the centerlines of Monroe and Second Streets, run northeasterly along the said centerline of Second Street to the intersection with the centerline of Lee Street; thence, run northwesterly along said centerline of Lee Street to a point where the centerline of Lee Street intersects the mean high tide line on the south bank of the Caloosahatchee River; thence run southwesterly along said south bank of the Caloosahatchee River to a point where the mean high tide line intersects the easterly right-of-way of U.S. 41 (SR 45); thence run southeasterly along said easterly right-of-way line of U.S. 41 to a point of intersection with the centerline of Edwards Drive; thence run northeasterly along said centerline of Edwards Drive to a point of intersection with the centerline of Monroe Street; thence run southeasterly along said Monroe Street centerline to the Point of Beginning.

(d) **Seminole Park Historic District**, more particularly described as follows:

All of Seminole Park Subdivision as recorded in Plat Book 5, at Page 54, Lee County Records, lying in Section 35, Township 44 South, Range 24 East.

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

- (a) **Alderman House**, 2572 First Street, more particularly described as follows: A parcel of land in Section 11, Township 44 South, Range 24 East, in the City of Fort Myers, Lee County, Florida, to-wit: Beginning at a point on the southerly side of First Street 127 feet easterly from the point of intersection of the east side of Park Avenue with the south side of First Street; thence easterly along the southerly side of First Street 150 feet; thence southerly and parallel with Park Avenue 210 feet; thence westerly and parallel with First Street 150 feet; thence northerly and parallel with Park Avenue 210 feet to the point of beginning.

Beginning at a point 210 feet S 35° E of the southeast corner of Park Avenue and First Street in Fort Myers, Florida; thence run south along the east side of Park Avenue 100 feet; thence run E 35° N 272 feet; thence run N 35° W 100 feet; thence run W 35° S 272 feet to the point of beginning; being in Block 17, of Homestead of James Evans, Plat Book 1, at Page 23, Public Records of Lee County, Florida.

- (b) **Murphy-Burroughs Home**, 2505 First Street, more particularly described as follows: That part of Lot 3, Block 4, James Evans Homestead, as recorded in Plat Book 1 at Page 23 in the Public Records of Lee County, Florida, lying east of Fowler Street and north of First Street.

- (c) **Thomas Edison Winter Home**, 2350 McGregor Boulevard, more particularly described as follows:

First Parcel—Beginning at a point on the westerly side of McGregor Boulevard, which point is N 58½° W of a point two chains and 25 links west of the southeast corner of Lot 2, Section 23, Township 44 South, Range 24 East; thence southerly along such McGregor Boulevard 592½ feet; thence N 58½° W to the Caloosahatchee River; thence northeasterly along such river to a point which is N 58½° W of the point of beginning; thence S 58½° E to such point of beginning. Together with the riparian rights thereunto appertaining.

Second Parcel—Beginning at a point two chains and 25 links due west from the southeast corner of Lot 2, Section 23, Township 44 South, Range 24 East; thence N 58½° W to the easterly side of McGregor Boulevard; thence southerly along McGregor Boulevard 415½ feet, thence S 58½° E to a point on a line bearing S 31½° W, a distance of six chains and three links from the point of beginning, thence N 31½° E to the point of beginning.

- (d) **Henry Ford Estate**, ~~2400~~ 2376 McGregor Boulevard, more particularly described as follows: Beginning on the north line of Government Lot 3, Section 23, Township 44 South, Range 24 East at its intersection with the centerline of McGregor Boulevard; thence southerly along centerline of such McGregor Boulevard S 32°30' W 50 feet; thence S 30°30' W along centerline of such boulevard 176 feet to the point of beginning of the land herein described; thence northwesterly at an inclusive angle of 86°15' along the northerly line of the Wercil E. Senseman property (formerly C.W. Stribley property) 597 feet to the Caloosahatchee River; thence northeasterly along the bank of such river to the southwesterly corner of the Mina O. Edison property; thence southeasterly along the southerly line of the aforesaid Mina O. Edison property to the centerline of McGregor Boulevard; thence southwesterly along the centerline of such McGregor Boulevard to the point of beginning, except therefrom that portion of McGregor

Boulevard lying westerly of the centerline thereof. This includes all riparian rights.

(e) **Lee County Courthouse**, 2120 Main Street, more particularly described as follows: A part of Block Six of the Town of Fort Myers according to the original survey of such town made by Julian G. Arista (illegible) A.D. 1876. Commencing at the southwest corner of such Block Six of such town and running in a northerly direction along Monroe Street 339 feet; thence N 55½° E and parallel with Second Street of such town 278 1/3 feet; thence S 35°45' E 339 feet to Second Street; thence along such Second Street to the place of beginning. Containing two acres more or less. Recorded in Deed Book A at Page 166, Public Records of Lee County, Florida.

(f) **Paul Laurence Dunbar Community School**, 1857 High Street, more particularly described as follows: Lot 6, Block K of Barden's Subdivision, as per unrecorded plat thereof prepared by Harry K. Davison under date of October 16, 1945, also being described by metes and bounds as follows, to wit: Beginning at the southwest corner of the northeast quarter of the southwest quarter of Section 18, Township 44 South, Range 25 East; thence west 450 feet to point of beginning of the lands to be herein described; thence south 155 feet; thence west 95.9 feet; thence north along the westerly side of Raleigh Street 155 feet to the intersection with Indian Street; thence easterly along the southerly side of Indian Street 97.45 feet to the point of beginning; (it being the intention by the above description to convey the same property acquired by parties of the first part in that certain deed from Goldie H. Barden Et Vir dated January 8, 1946 in Deed Book 183 at Page 156, Lee County, Florida Public Records), and:

The south half of the northwest quarter of the southeast quarter of the southwest quarter of Section 18, Township 44 South, Range 25 East, excepting therefrom a strip of land 30 feet wide off the east side thereof, containing 4.77 more or less, and:

Beginning at the northwest corner of the southeast quarter of the southwest quarter of Section 18, Township 44 South, Range 25 East and running thence south 330 feet; thence east 630 feet; thence north 330; thence west 630 feet to the point of beginning, excepting therefrom a strip of land 30 feet wide across the north side of the above described property reserved for street and other easement purposes, and:

Lot 14, in that certain subdivision known as Orange Heights, according to the map or plat thereof on file and recorded in the Office of the Clerk of the Circuit Court of Lee County, Florida in Plat Book 8 at Page 47, and:

Lots 12 and 13, Orange Heights Subdivision, as per map or plat thereof on file and recorded in the Office of the Circuit Court of Lee County, Florida in Plat Book 8 at Page 47, and:

Lot 11 in that certain subdivision known as Orange Heights, according to the map or plat thereof on file and recorded in the Office of the Clerk of the Circuit Court of Lee County, Florida in Plat Book 8 at Page 47, and:

Lot 7, Block K of Barden's Subdivision, as per unrecorded plat thereof, such property being described by metes and bounds as follows, to wit: Beginning at the southeast corner of the northwest quarter of the southwest quarter of Section 18, Township 44 South, Range 25 East, same being a point in the southerly side of Indian Street; thence south 305 feet, more or less, to the north side of Economy Street; thence westerly along the northerly side of Economy Street to the easterly side of Raleigh Street and the point of beginning of the land to be herein described; thence north along the easterly side of Raleigh Street, 150 feet; thence east 95.9 feet; thence south 150 feet; thence west, along the northerly side of Economy Street to the point of beginning. (It being the intention herein by the above description to convey to the party of the second part, the same property as that conveyed to parties of the first part by Goldie H. Harden Et Vir by deed dated January 1, 1948 recorded in Deed Book 192 at Page 476 et seq.), and:

A tract or parcel of land lying in the southeast quarter of the southwest quarter of Section 18, Township 44 South, Range 25 East, Lee County, Florida, such tract or parcel being Lots 6 and 7, Block K of Barden's Subdivision, unrecorded and Lots 11 through 14 of Orange Height Subdivision, as recorded in Plat Book 8 at Page 47 of the Public Records of Lee County, Florida, which is described as follows: From the point of commencement being the northwest corner of the southeast quarter of the southwest quarter of such Section 18; thence S 0°0'13" E for 30.00 feet along the quarter-quarter section line and the centerline of High Street; thence S 89°43'04" E for 30.00 feet to the point of beginning; thence continue S 89°43'04" E for 649.39 feet along the southerly right-of-way of Indian Street (30 feet from the quarter-quarter section line); thence N 0°37'11" W for 30.00 feet along the westerly line of Lot 6 of Barden's 2nd Subdivision Block K (unrecorded); thence S 89°43'04" E for 97.45 feet along the southerly right-of-way of Indian Street and the quarter-quarter section line; thence S 0°03'05" E for 305.35 feet along the easterly lot line of Lots 6 and 7 of such Barden's Subdivision; thence N 89°43'09" W for 88.39 feet along the northerly right-of-way of Economy Street (25 feet from centerline); thence S 0°01'39" E for 50.00 feet along the westerly right-of-way of such Economy Street; thence S 89°43'09" E for 103.40 feet along the southerly right-of-way of Economy Street (25 feet from centerline); thence S 0°03'05" E for 280.35 feet along the easterly lot lines of Lots 11 through 14 of Orange Heights Subdivision as recorded in Plat Book 8 at Page 47 of the Public Records of Lee County; thence N 89°43'14" W for 103.52 feet along the northerly right-of-way of Blount Street (25 feet from centerline); thence N 0°01'39" W for 5.00 feet; thence N 89°43'14" W for 658.52 feet along the northerly right-of-way of Blount Street (30 feet from centerline); thence N 0°0'13" W for 600.74 feet along the easterly right-of-way of High Street (30 feet from centerline) to the point of beginning.

Containing 10.3708 acres, more or less.

- (g) **Residence 1318 Caloosa Vista Road**, more particularly described as follows:

A tract of or parcel of land lying in the southwest quarter of Section 34, Township 44 South, Range 24 East, City of Fort Myers, Lee County, Florida, which tract or parcel is described as follows:

Lot 3 and the west 23 feet of Lot 4, Block B of Caloosa Vista Rev. Plat, as recorded in Plat Book 8 at Page 74 at Lee County Records in Fort Myers, Florida; and the north 18 feet, more or less, of partial Lots 18—20 of Bonair Subdivision, as recorded in Plat Book 6 at Page 20, at Lee County Records in Fort Myers, Florida.

- (h) **Gilmer Heitman House**, 2577 First Street, more particularly described as follows: A parcel on the north side of First Street, in the northeast quarter of Section 13, Township 44 South, Range 24 East as described in OR Book 2256 at Page 1772 of the Official Records, Lee County, Florida.
- (i) **Casa Rio**, 2424 McGregor Boulevard, more particularly described as follows: A parcel in the southwest quarter of Section 23, Township 44 South, Range 24 East as described in OR Book 881 at Page 112 of the Official Records, Lee County, Florida.
- (j) **1937 Works Progress Administration Brick Water Plan Building**, 2600 Dr. Martin Luther King Jr. Boulevard ~~2000 Cranford Street~~, more particularly described as follows:

A tract of land located in Section 24, Township 44 South, Range 24 East, City of Fort Myers, Lee County, Florida, more particularly described as follows:

Evans Addition No. 2, Block 16, Lots 2, 4 and 6.

- (k) **Langford-Kingston Home**, currently located at 2500 ~~2466~~ First Street, more particularly described as follows:

A tract of land located in the southwest quarter of Section 13, Township 44 South, Range 24 East, more particularly described as a portion of Lot 3, Block 9, Evans Homestead, as found in Plat Book 1 at Page 23, Lee County records as follows:

Beginning at the northwest corner of Lot 3, Block 9, Evans Homestead Subdivision, run northeasterly N 58°07'02" E, a distance of 334.29 feet to the point of beginning of the following described parcel: run northeasterly along the south right-of-way line of First Street for a distance of 69.02 feet to a point on a curve of the right-of-way to the southeast, with a radius of 25 feet and an arc length of 39.5 feet; thence continue southeasterly along the west right-of-way line of Fowler Street, S 31°55'22" E, a distance of 104 feet; thence run southwesterly S 58°04'38" W, a distance of 94 feet; thence run north a distance of plus or minus 129 feet to the point of beginning.

- (l) **Atlantic Coast Line Railroad passenger station**, 2031 Jackson Street, ~~Southwest Florida Museum of History~~, ~~2300 Peck Street~~, more particularly described as follows:

Beginning at the intersection of the centerline of Peck Street (formerly platted as Peck Avenue) right-of-way with the east right-of-way line of Jackson Street; thence run northeasterly 180.17 feet to the south right-of-way line of an alley; thence run easterly 418.38 feet to the west right-of-way line of Lee Street; thence run southerly 180.24 feet to the point of intersection with the centerline of the right-of-way of Peck Street; thence run westerly 418.96 feet to the point of beginning.

- (m) **Residence at 336** ~~346~~ **Van Buren Street**, more particularly described as follows:

Parcel A

A lot or parcel of land lying in Government Lot 2, Section 5, Township 44 South, Range 25 East, Lee County, Florida, which lot or parcel is described as follows:

From the corner common to Lots 4 and 10, Block B, Unit 1 Rainbow Groves, according to plat recorded in Plat Book 9 at Page 130 of the Public Records of Lee County and the parcel marked "Not included in this plat" run N 34°16'00" E along the southeasterly line of said parcel for 63.2 feet to the southeast corner of a roadway easement 20 feet wide; thence continue N 34°16'00" E along said southeasterly line of said parcel along the southeasterly line of a driveway easement 20 feet wide for 39.89 feet to the point of beginning of the lands hereby described. From said point of beginning continue N 34°16'00" E along said southeasterly line of said parcel and along said southeasterly line of a driveway easement 20 feet wide for 103.09 feet; thence run N 69°47'00" W and along the centerline of a driveway easement 20 feet wide for 270 feet to the end of said easement; thence continue N 69°47'00" W for 134 feet, more or less, to the waters of the Caloosahatchee River; thence run southwesterly along said water to an intersection with a line bearing N 69°47'00" W passing through the point of beginning; then run S 69°47'00" E along said line for 406 feet, more or less, to the point of beginning.

Parcel B

To the following described real estate, situate, lying and being in Lee County, Florida, to-wit:

A lot or parcel of land lying in Government Lot 2, Section 5, Township 44 South, Range 25 East, Lee County, Florida, which lot or parcel is described as follows:

From the corner common to Lots 4 and 10, Block B, Unit 1, Rainbow Groves, according to plat recorded in Plat Book 9 at Page 130 of the Public Records of Lee County and the parcel marked "Not included in this plat" run N 34°16'00" E along the southeasterly line of said parcel for 63.2 feet to the southeast corner of a roadway easement 20 feet wide; thence continue N 34°16'00" E along said southeasterly line of said parcel and along the southeasterly line of a driveway easement 20 feet wide for 142.98 feet to the point of beginning of the lands hereby described. From said point of beginning run N 69°47'00" W and along the centerline of a driveway easement 20 feet wide for 270 feet to the end of said easement; thence continue N 69°47'00" W for 134 feet, more or less, to the waters of the Caloosahatchee River; thence run northeasterly along said waters to an intersection with the northerly line of said "Not included" parcel; thence run S 69°47'00" E along said northerly line for 400 feet, more or less, to the northeasterly corner of said parcel; thence run S 34°16'00" W along the easterly line of said "Not included" parcel for 103.09 feet to the point of beginning.

- (n) **McCullum Hall**, 2701 2717—Dr. Martin Luther King, Jr. Boulevard, more particularly described as follows:

Lots 26, 28 and 30, Block 13 of Evans Addition Subdivision as recorded at Plat Book 1, Page 29, in the Official Records, Lee County, Florida.

- (o) **Tootie McGregor Terry Memorial Fountain**, donated to the city on December 6, 1912, by General M.O. Terry, currently located at 3591 McGregor Boulevard, more particularly described as follows:  
 A 15-foot fountain with a pink granite basin and a marble palm tree with copper palm fronds topped with a pink marble ball. The base of the marble palm tree is decorated with six snakes constructed of copper depicting two copperhead snakes, two coral snakes and two cottonmouth snakes.
- (p) **Williams Academy** (building only), currently located at 1936 Henderson Avenue.
- (q) **Former residence at 1611 Fowler Street**, more particularly described as follows: A tract or parcel of land lying in the southwest quarter of Section 13, Township 44 South, Range 24 East, City of Fort Myers, Lee County, Florida, which tract or parcel is described as follows:  
 Block 9, as recorded in Plat Book 1, Page 23, at Lee County Records in Fort Myers, Florida; and described in OR 1244/2013 Less R/W OR 2286/2474 in Lee County Records in Fort Myers, Florida.
- (r) **Towles-Engelhardt Home**, (building only), currently located at 2050 McGregor Boulevard.
- (s) **Residence at 1717 Hanson Street**, more particularly described as follows:  
 A tract or parcel of land lying in Section 26, Township 44 South, Range 24 East Grove Heights, Block 3, Plat Book 5 at Page 15 Lots 12 through 14 in Lee County Records, Fort Myers, Florida.
- (t) **Andrew D. Gwynne Institute**, 2266 Second Street, more particularly described as follows:  
 Lot 4, Block 12, James Evans Homestead, a subdivision, according to the plat thereof as recorded in Plat Book 1, Page 23, Public Records of Lee County, Florida.
- (u) **Residence at 3488 East Riverside Drive**, more particularly described as follows:  
 Lots 4 and 5, Block 13, Travers and Hendrys Subdivision, as recorded in Plat Book 1, Page 32, Public Records of Lee County, Florida.
- (v) **Former church at 1634 Woodford Avenue**, more particularly described as follows:  
 A parcel of land lying in Block 9 Homestead of James Evans, according to the Plat thereof recorded in Plat Book 1, Page 23, of the Public Records of Lee County, Florida, and Lots 9 and 11 of Hugh MacDonald Jr.'s Subdivision, according to the plat thereof recorded in Plat Book 1, Page 39, of the Public Records of Lee County, Florida, being further described as follows:  
 Beginning at the Northeasterly corner of Second and Hough Streets in Lot 4, Block 9, Homestead of James Evans, according to Plat Book 1 at Page 23 of the Lee County Florida Public Records; thence Northeasterly along the Northwesterly right of way of Second Street (25 feet from centerline) for 338.0 feet to the Southwesterly corner of Woodford Avenue (23.125 feet from centerline), being also the Southeasterly corner of Lot 11 of Hugh MacDonald Jr.'s Subdivision,

according to a plat recorded in Plat Book 1, Page 39 of the Lee County Public Records; thence Northwesterly, along the Southwesterly right of way of said Woodford Avenue for 256.00 feet to the Northeasterly corner of Lot 9 for 138.0 feet to the Southwesterly line of said Hugh MacDonald Jr.'s Subdivision; thence Southeasterly along said Southwesterly line for 41.5 feet to the Northeasterly corner of a parcel described in a deed recorded in Deed Book 194 at page 124 of said Lee County Florida Public Records; thence Southwesterly, parallel with Second Street for 10.8 feet (described as 12 feet more or less in said deed); thence Southeasterly, parallel with Hough Street for 56.0 feet; thence Southwesterly, parallel with Second Street for 188.0 feet to the Northeasterly right of way of Hough Street (25 feet from centerline); thence Southeasterly along said Northeasterly right of way for 150.0 feet to the Point of Beginning.

LESS AND EXCEPT the following parcel of land described in that certain Warranty Deed recorded in Official Records Book 1457, Page 1109, of the Public Records of Lee County, Florida, to wit:

A lot or parcel of land lying in Lot 4, Block 9 Homestead of James Evans Section 13, Township 44 South, Range 24 East, City of Fort Myers as shown on a plat recorded in Plat Book 1, at Page 23, Lee County records, and in Lot 9 and 11, Hugh MacDonald Jr.'s Subdivision, as shown on a plat recorded in Plat Book 1, at Page 39, of said public records, which lot or parcel is described as follows:

Beginning at the axle marking the Northerlymost corner of said Lot 9; thence run Southeasterly along the Northeasterly line of said Lot 9 and Southwesterly line of Woodford Avenue (46.25 feet wide) for 99.84 feet to the Southeasterly line of a concrete sidewalk 3 feet wide; thence continue along the Southwesterly line of said Woodford Avenue and the Northeasterly line of Lot 11, Hugh MacDonald Jr.'s Subdivision for 8.46 feet to a steel pin now set; thence deflect 96 degrees 18'40" to the right and run Southwesterly for 80.12 feet to a steel pin now set at the Easterly junction of the Southwesterly prolongation of the aforementioned 3 feet wide sidewalk and a second sidewalk also 3 feet wide running Northwest; thence deflect 22 degrees 42'12" to the right and run Westerly for 13.58 feet to a steel pin now set at the Westerly junction of two other sidewalks, on 3.9 feet wide and running Southeast; the second being 3 feet wide and running Northeast; thence deflect 28 degrees 20'33" to the left and run Southwesterly along the Northwesterly edge and the prolongation thereof the latter sidewalk, 3 feet wide, for 57.17 feet to an intersection with the Southwesterly line of lands described in deed recorded in Deed Book 194 at page 124 of said public records; thence run Northwesterly along said Southwesterly line for 50.0 feet more or less to a concrete monument marking the Westerlymost corner of said lands; thence run Northeasterly along the Northwesterly line of said lands for 10.8 feet to a concrete monument on the Southwesterly line of said Lot 9, Hugh MacDonald Jr.'s Subdivision; thence run Northwesterly along said Southwesterly line for 41.5 feet to a concrete monument marking the Westerlymost corner of said Lot 9; thence run Northeasterly along the Northwesterly line of said Lot 9 for 138 feet to the Point of Beginning.

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

**Secs. 114-150—114-159. - Reserved.**

## **ARTICLE V. - LOCAL HISTORIC ROADS AND HIGHWAYS**

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

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

- (1) The following uses or activities are prohibited within the right-of-way of McGregor Boulevard as defined and designated herein as a local historic scenic highway:
  - a. There shall be no removal of any living palm tree within the right-of-way or any activity which requires the removal of such living tree without the replacement of such a similar tree.
  - b. There shall be no new street connections, road connections, road intersections, or the widening of any existing intersections and no overpasses or underpasses made either with, under or over McGregor Boulevard or any alteration of the physical dimensions, appearance or location of the portion of McGregor Boulevard after July 20, 2009, except for the following:
    1. Bicycle paths, the construction of which does not require the removal of any palm tree.
    2. Construction, by owners of property or easements abutting such road, of access roads, driveways or other such entrances and exits to such road. Should such construction require the removal of a living palm tree, such palm tree shall be relocated as close to the original location as possible.
  3. The ordinary maintenance and repair of the road, provided the physical dimensions and location of the road are preserved.
  4. The establishment of three-lane turn intersections on such road, if such can be accomplished without the dislocation of immediately bordering palm trees, or can be accomplished by transplanting such palm trees to conform with the revised intersection design.