

PROPOSED
ORDINANCE NO. 24-19

ORDINANCE NO. _____

AN ORDINANCE
TO BE ENTITLED:

AN ORDINANCE AMENDING SECTION 12-12-5 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; CREATING SUBSECTION 12-12-5(E) ESTABLISHING A PROCESS FOR THE REVIEW OF REQUESTS TO DEMOLISH BUILDINGS OF HISTORICAL, ARCHITECTURAL, CULTURAL OR URBAN DESIGN VALUE TO THE CITY; PROVIDING DEFINITIONS; PROVIDING ARCHITECTURAL REVIEW BOARD CRITERIA AND PROCEDURES; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY OF PENSACOLA, FLORIDA:

SECTION 1. Section 12-12-5 of the Code of the City of Pensacola, Florida, is hereby amended to read as follows:

SECTION 12-12-5. - Building permits.

This section is established to provide for building permits for review of compliance with the provisions of this land development code. A "building permit" means any building or construction permit required by Chapter 14-1.

(A) *Application.* Any owner, authorized agent, or contractor who desires to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by the Standard Building Code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit for the work. All applications for building permit shall be accompanied by the following information and materials:

(a) Two (2) complete sets of building construction plans shall be required. In addition, a plot plan drawn to scale depicting the following information shall be required for residential and commercial building permits:

1. Lot dimensions, boundary lines, area of the lot, and its legal description.
2. The locations and dimensions of buildings, structures or additions, including all overhangs, eaves and porches.
3. The yard requirements indicating distance from all property lines to the proposed buildings, structures or additions in feet.
4. The existing and proposed uses of each building, structure or addition.
5. Access and parking layout, including driveway location. Where applicable, required loading and unloading spaces should be indicated.
6. Elevations showing architectural features of each side of the existing and proposed construction.
7. Where application is made to build upon a lot nonconforming in size or dimensions (lot of record), the application shall be accompanied by a recorded deed giving description of the property as of July 23, 1965.
8. For all plans except single-family or duplex dwellings a landscape plan is required pursuant to section 12-6-4.

(b) Proof of sewer tap from Escambia County Utilities Authority.

(c) Completed current Florida Model Energy Efficiency Code Building Construction.

One (1) copy of the plans shall be returned to the applicant by the building official after he has marked such copy either as approved or disapproved and attested same by his signature on such copy. The original, similarly marked, shall be retained by the building official.

(B) *Issuance of building permits.* No application for a building permit shall be approved by the building official for any building, structure, or addition on any lot in violation of this chapter or not in compliance with any provisions of this chapter, unless authorized under subsection 12-12-2(A)(2), Variances.

(C) *Construction and occupancy to be as provided in applications.* Building permits issued on the basis of plans and applications approved by the building official authorize only the occupancy, arrangement, and

construction set forth in such approval plans and applications, and no other occupancy, arrangement, or construction. Occupancy, arrangement, or construction in variance with that authorized shall be deemed a violation of this chapter, unless such change is reviewed and approved by the building official.

(D) *Expiration of building permits.* Every permit issued shall become invalid unless the work authorized by such permit is commenced within six (6) months after its issuance, or if the work authorized by such permit is suspended or abandoned for a period of six (6) months after the time the work is commenced; provided that, for cause, one or more extensions of time, for periods not exceeding ninety (90) days each, may be allowed, and such extensions shall be in writing by the building official.

(E) This section shall be known and cited as the City of Pensacola's Historic Building Demolition Review Ordinance. The purpose of this section is to establish a predictable process for reviewing requests to demolish certain historic buildings not located within historic and preservation land use districts in order to establish an appropriate waiting period during which the City and the Applicant can propose and consider alternatives to the demolition of a building of historical, architectural, cultural or urban design value to the City.

(1) Definitions.

For the purposes of this section only, the following words and phrases, whether or not capitalized, shall have the following meanings:

Applicant means the person or persons filing an application for review under this Section.

Application means a Demolition Permit application for review under this Section, filed with the City's Inspection Services Division.

Application filing date means the date on which the application was filed with the City's Inspection Services Division.

Architectural Review Board means the City's Architectural Review Board as advisors to the City Council.

Contributing Structure means any building adding to the historic significance of a property or district.

Day means any day, including Saturdays, Sundays, and holidays.

Demolition means any act of pulling down, destroying, razing, or removing a building.

Demolition permit means a permit issued by the Inspection Services Division authorizing the demolition of a building pursuant to an application.

Florida Master Site File means the State of Florida's official inventory of historical, cultural resources including archaeological sites, historical structures, historical cemeteries, historical bridges and historic districts, landscapes and linear resources.

Historic Building means a building or structure that is:

- (a) At least 50 years in age or more; or
- (b) Individually listed in the National Register of Historic Places; or
- (c) A contributing property in a National Register of Historic Places listed district; or
- (d) Designated as historic property under an official municipal, county, special district or state designation, law, ordinance or resolution either individually or as a contributing property in a district; or
- (e) Determined potentially eligible as meeting the requirements for listing in the National Register of Historic Places, either individually or as a contributing property in a district, by the Secretary of the Interior.

Historic Site means a place, or associated structures, having historic significance.

Historic Structure means a building, bridge, lighthouse, monument, pier, vessel or other construction that is 50 years in age or more and is designated or that is deemed eligible for such designation by a local, regional or national

jurisdiction as having historical, architectural or cultural significance.

Neighborhoods means all the areas of the City.

Significant building means a building with respect to which the Architectural Review Board has made a determination, that further examination, ~~including the public hearing required by this Section,~~ is warranted to determine whether a delay in demolition should be required.

National Register of Historic Places means the official Federal lists of districts, sites, buildings, structures and objects determined significant in American history, architecture, archaeology, engineering and culture.

(2) Buildings Subject to Review.

The following buildings are subject to review by the Architectural Review Board for the purpose of determining whether such buildings are historically significant:

Any building located in the Neighborhoods of the city of Pensacola if:

- (a) Such building, or the portion thereof to which the application relates, is 50 years old or older; or
- (b) Such building is listed on the City of Pensacola's "Local Registry of Historic or Significant Buildings" and/or the Florida Division of Historical Resource's Florida Master Site File, or
- (c) Such building or the portion thereof is determined to be a historically significant building pursuant to subsection ~~(4)3~~ (5)c, herein.
- (d) Such building is located in one of the City of ~~Pensacola's~~ historic preservation districts AND is ~~confirmed as a contributing structure to that~~ ~~district.~~

(3) Exemptions.

Demolition of historic buildings, whether contributing or noncontributing, located in the following districts shall be exempt from this section.

- (a) Pensacola Historic District, refer to section 12-2-10(A) (9) to (11);
- (b) North Hill Preservation District, refer to section 12-2-10(B) (9);
- (c) Old East Hill Preservation District, refer to section 12-2-10(C) (10);
- (d) Palafox Historic Business District, refer to section 12-2-21(F) (2) (d); and
- (e) Governmental Center District.

(4) Enforcement.

(a) Issuance of Demolition Permit. With exception to the districts listed in subsection 3, herein, the requirements set forth in this Section are in addition to, and not in lieu of, the requirements of any other codes, ordinances, statutes, or regulations applicable to the demolition of buildings. The Building Official shall not issue any demolition permit relating to a building that is subject to review, unless:

1. The Building Official has determined that the building is unsafe in accordance with City Code Section 14-1-139.
2. The Building Official: (i) has received a notice issued by the Architectural Review Board, that the building is not subject to review under this section, or is not a historically significant building, or (ii) has not received such notice within the time period set forth in subsection ~~(4)~~ (5) (a); or
3. The Building Official: (i) has received a notice issued by the Architectural Review Board that no demolition delay is required; or (ii) has not received such notice within the time period set forth in subsection ~~(4)~~ (5) (a); or
4. The Building Official has received a notice issued by the Architectural Review Board that there is no feasible alternative to demolition; or
5. The demolition delay period set forth in subsection ~~(4)~~ (5) (a) has expired.

(b) Required Demolition or Repair.

1. Demolition. Nothing in this section shall restrict the authority of the Building Official to order the building owner, or the City, to demolish a building at any time if the Building Official determines that the condition of a building or part thereof presents an imminent and substantial danger to the public health or safety.

(5) Procedure.

- (a) Application. An application for review under this section shall be made in the manner provided below. The process, from start (application) to finish (determination and/or permit issuance) shall not exceed 120~~150~~ 120 days. If the Applicant is not the owner of record of the building, the owner or owners of record shall co-sign the application.

1. Time for Filing Application. The Applicant (or building owner) is encouraged to apply for review under this section as early as possible, so that any necessary review, and any delay period required by this Section, may be completed prior to, or during, any other review to which the building or its site may be subject.

2. Application for Early Review. At any time prior to filing an application for a demolition permit, the Applicant may apply for review under this Section by submitting a request in writing to the Architectural Review Board.

3. Informational evidence: The Applicant must submit for review sufficient information to enable the Architectural Review Board to make their determination, including an accurate site plan showing the footprint, photos of all sides of the subject building and the site to indicate all existing site features, such as trees, fences, sidewalks, driveways and topography, and photos of the adjoining streetscape, including adjacent buildings to indicate the relationship of the existing structure to the surrounding properties.

- (b) Determination: Applicability of Review and Significance of Building. After its receipt of an application from Planning Staff, the Architectural Review Board shall determine: (1) whether the building is subject to review under this Section, and (2) whether the building is a historically significant building. The Architectural Review Board may seek the assistance of City staff or the University of West Florida's Historic Trust or the University of West Florida Archaeological Institute.

The initial review process shall be handled as an abbreviated review involving staff, and the Chairman or his/her designee of the Architectural Review Board, and a staff member of West Florida Historic Preservation, Inc. If it is determined by the abbreviated review panel to be potentially architecturally historically significant, the application would then go to the full Architectural Review Board for review.

However, if the building is determined by the abbreviated review panel to not be historically significant by not meeting the criteria set forth in subsection (5)c, the Historic Building Demolition Review will end.

The Architectural Review Board shall issue a notice of its determination within ~~forty-five (45)~~ sixty (60) days of an application being received. If the Architectural Review Board determines that the building is historically significant, such notice shall:

1. indicate that the Architectural Review Board will hold a public hearing within the time period required by this Section; and
2. ~~invite~~ Invite the Applicant to submit any information that the Applicant believes will assist the Architectural Review Board in: (i) determining whether the building is subject to demolition delay according to the criteria set forth herein, and (ii) evaluating alternatives to demolition.

- (c) Set forth the Criteria for Requiring Demolition Delay. The Architectural Review Board shall make its determination concerning the requirement of demolition delay according to the following criteria: ~~set forth herein.~~ To determine that a historically significant building is subject to the demolition delay, the Architectural Review Board must find that, in the public interest, it is preferable that the building be preserved or rehabilitated rather than demolished. In making such finding, the Architectural Review Board shall consider the criteria for determining historical significance.

The Applicant is encouraged to present any information the Applicant believes will assist the Architectural Review Board in making its determination.

Provide Information regarding the Early Determination of No Feasible Alternative. At the ~~hearing~~ determination meeting or within the demolition delay period, the Applicant may present any information the Applicant believes will assist the Architectural Review Board in evaluating alternatives to demolition. If, at such hearing, the Architectural Review Board finds that demolition delay is required, and also finds that the information presented at such hearing is sufficient for the Board to issue a determination that there is no feasible alternative to demolition, the Board shall issue such determination within the time period set forth in this subsection for the issuance of the Architectural Review Board's hearing determination.

- (d) Criteria for Determining Significance. The Architectural Review Board shall determine that the building to which the application relates is a historically significant building if:

1. The building is associated with events that had have made a significant contribution to the broad patterns of our national, regional or historical local history; or
2. The building is associated with the lives of persons significant in our national, regional or local past; or
3. The building embodies the distinctive characteristics of a type, period or method of construction , or that represents the work of a master, or that possess high artistic values, or that represents a significant and distinguishable entity whose components may lack individual distinction; or
4. The building has yielded, or may be likely to yield, information important in national, regional or local history.

~~(c) Architectural Review Board Hearing to Determine Whether Historically Significant Building is Subject to Demolition Delay.~~

1. ~~Hearing Requirement; Time for Issuance of Determination. If the Architectural Review Board has determined that a building is historically significant, the Architectural Review Board shall hold a public hearing to determine whether the building is subject to the demolition delay required herein. At such hearing, the Architectural Review Board also may consider alternatives to demolition. The Architectural Review Board shall issue its determination pursuant to such hearing within forty five days (45) of the Public Hearing. Additionally, the Architectural Review Board may consult with the Florida Division of Historical Resources and State Historical Preservation Office or other consulting parties for comment within prior to thirty (30) days of the Public Hearing.~~
2. ~~Criteria for Requiring Demolition Delay. The Architectural Review Board shall make its determination concerning the requirement of demolition delay according to the criteria set forth herein. The Applicant is encouraged to present any information the Applicant believes will assist the Architectural Review Board in making its determination.~~

3. Early Determination of No Feasible Alternative. At the hearing, the Applicant may present any information the Applicant believes will assist the Architectural Review Board in evaluating alternatives to demolition. If, at such hearing, the Architectural Review Board finds that demolition delay is required, and also finds that the information presented at such hearing is sufficient for the Board to issue a determination that there is no feasible alternative to demolition, the Board shall issue such determination within the time period set forth in this subsection for the issuance of the Architectural Review Board's hearing determination.
4. Hearing Notice and Procedure. Except where otherwise specified in this Section, the conduct of any public hearing held, including public notices, hearing procedures, votes, records, and the like, shall be governed by the rules and procedures established by the Architectural Review Board through its duly adopted regulations and by-laws.

(e) Criteria for Determination that Building is Subject to Demolition Delay. To determine that a historically significant building is subject to the demolition delay, the Architectural Review Board must find that, in the public interest, it is preferable that the building be preserved or rehabilitated rather than demolished. In making such finding, the Architectural Review Board shall consider the criteria for determining historical significance.

(f) Demolition Delay.

1. Delay Period. If the Architectural Review Board has issued a determination that a historically significant building is subject to demolition delay, the Building Official shall not issue a demolition permit until one hundred and twenty (120) ~~sixty (60)~~ days have elapsed following the close of the public hearing ~~sixty (60) days have elapsed from the date of determination but in no case exceeding the aggregate of 120 days from the date of application. has expired.~~

Upon expiration of the delay period, the Architectural Review Board shall issue a notice in writing stating that such delay period has expired, and the date of such expiration, unless the Architectural Review Board has issued a determination that there is no feasible alternative to demolition.

2. Invitation to Consider Alternatives. If the Architectural Review Board has determined that a historically significant building is subject to demolition delay, and has not determined, at the hearing that there is no feasible alternative to demolition, the Architectural Review Board shall invite the Applicant (or the owner of record, if different from the Applicant) to participate in an investigation of alternatives to demolition. The Architectural Review Board also may invite the participation, on an advisory basis, of City Staff, as well as any individual or representative of any group whose participation the Applicant (or owner) requests, to assist in considering alternatives.

- (g) Evaluation of Alternatives to Demolition. In evaluating alternatives to demolition, the Architectural Review Board may consider such possibilities as: the incorporation of the building into the future development of the site; the adaptive re-use of the building; the use of financial or tax incentives for the rehabilitation of the building; the removal of the building to another site; and, with the owner's consent, the search for a new owner willing to purchase the building and preserve, restore, or rehabilitate it.

In evaluating alternatives to demolition, the Architectural Review Board shall consider, and shall invite the Applicant to present, the following information:

1. The cost of stabilizing, repairing, rehabilitating, or re-using the building;
2. A schematic, conceptual design drawing;

3. Any conditions the Applicant proposes to accept for the redevelopment of the site that would mitigate the loss of the building; and
 4. The availability of other sites for the Applicant's intended purpose or use.
- (h) Determination of No Feasible Alternative. If, based on its evaluation of alternatives to demolition, the Architectural Review Board is satisfied that there is no feasible alternative to demolition, the Architectural Review Board may issue a determination prior to the expiration of the delay period, authorizing the building official to issue a demolition permit.
- (i) Notice. Any determination or notice issued by the Architectural Review Board or its staff shall be transmitted in writing to the Applicant, with copies to the building official and, where applicable, to any individual or group that the Architectural Review Board has invited to participate in an exploration of alternatives to demolition.

SECTION 2. If any word, phrase, clause, paragraph, section or provision of this ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, such finding shall not affect the other provision or applications of the ordinance which can be given effect without the invalid or unconstitutional provisions or application, and to this end the provisions of this ordinance are declared severable.

SECTION 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 4. This ordinance shall take effect on the fifth business day after adoption, unless otherwise provided, pursuant to Section 4.03(d) of the City Charter of the City of Pensacola.

Adopted: _____

Approved: _____
President of City Council

Attest:

City Clerk