ORDINANCE NO. 98-57

CITY OF POMPANO BEACH
Broward County, Florida

**AN ORDINANCE OF THE CITY OF POMPANO BEACH, FLORIDA, CREATING A NEW CHAPTER 158 OF TITLE XV OF THE CODE OF ORDINANCES OF THE CITY OF POMPANO BEACH TO BE ENTITLED "ARCHITECTURAL APPEARANCE COMMITTEE", FOR THE PURPOSE OF ESTABLISHING AN ARCHITECTURAL APPEARANCE COMMITTEE TO REVIEW THE AESTHETIC ASPECTS OF BUILDING AND SITE CHANGES; PRESCRIBING ORGANIZATION, MEMBERS, TERMS, APPOINTMENTS; SPECIFYING POWERS, DUTIES AND CRITERIA OF THE COMMITTEE; ESTABLISHING MEETINGS, RECORDS, APPROVAL OF PLANS; DECLARING CERTAIN ACTS TO BE IN VIOLATION OF THIS ORDINANCE; PRESCRIBING PENALTIES FOR ACTS TO BE IN VIOLATION OF THIS ORDINANCE; PRESCRIBING PENALTIES FOR THE VIOLATION OF THE PROVISIONS OF THIS ORDINANCE; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.**

WHEREAS, the City Commission and citizens of Pompano Beach are desirous of creating an improved quality of life in the community which can, in part, be derived from the construction of aesthetically pleasing structures and the beautification of the environs surrounding such structures; and

WHEREAS, the health, safety, aesthetic attractiveness and general welfare of the community can be achieved through the promulgation of detailed design criteria as stated herein; and

WHEREAS, beautiful and well-planned communities result through such a comprehensive scheme of regulations guided by a Committee empowered by its enabling

ordinance to merge environment and development into an integrated whole; and

WHEREAS, pursuant to law, ten (10) days' notice has been given by publication in a paper of general circulation in the City, notifying the public of this proposed Ordinance and of a public hearing in the City Commission Chambers of the City of Pompano Beach; and

WHEREAS, a public hearing before the City Commission was held pursuant to the published notice described above, at which hearing the parties in interest and all other citizens so desiring had an opportunity to be and were, in fact, heard; now, therefore,

**BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:**

SECTION 1: That there is hereby created a new Chapter 158 in Title XV of the City of Pompano Beach Code of Ordinances to read as follows:

## TITLE XV: LAND USAGE

### Chapter 158: ARCHITECTURAL APPEARANCE COMMITTEE

#### Section 158.01 PURPOSE.

This Committee has been established by the City Commission of the City of Pompano Beach in recognition of the fact that beautiful communities can be created only through a deliberate action on the part of the community leadership, architects, planners, realtors and the building industry.

Public action for improving community appearance, as embodied in the Architectural Appearance Committee, will provide the ultimate designers of individual structures with the larger contexts in which their particular works will be viewed. Since the beauty of a community involves the aesthetic quality of all one sees in the community, it goes far beyond the design of individual architectural facades.

Zoning is the single most powerful legal enforcement of an overall urban concept, but it does not fully plan building locations, traffic movement or parklands; it does not create beauty, aesthetic order, or amenity. The task of this Committee is, therefore, to preserve various elements of urban beauty and require that new projects enhance that which already exists.

The essential foundation of beauty in cities is harmony with nature. The plan for achieving beauty must grow out of our special local characteristics of site, aesthetic tradition, and developmental potential. Some local areas of natural beauty are the beaches, the Intracoastal Waterway, the lakes within the City, the canals and the parks. The vistas and visual delight of these should be allowed only to be enhanced. It is the intent that this Committee achieve a pleasant and comprehensive cohesiveness in our community development. The method of achieving this goal is by the use of a Community Design Plan - the larger contexts referred to above - which would indicate, for the various parts of the municipality, the aesthetic character to be encouraged and the means by which such aesthetic character is to be attained and protected. The Architectural Appearance Committee is composed of persons with experience in judging three dimensional forms, and their inter-relationships, who have the ability to meet any particular designer on the grounds of his own aesthetic understanding. The Committee acts in review of specific projects to ascertain whether proposals would enhance the Community or violate the spirit of this ordinance. The Committee defines the objectives and looks to see if the aesthetic intentions are actually embodied in proposed projects.

Section 158.02 CREATION, MEMBERS, TERMS, APPOINTMENTS.

An Architectural Appearance Committee is hereby created:

A. The Committee shall be composed of five members, appointed by the Commission for terms of two years, except that the members of the first Committee to serve shall be appointed so that three members shall serve one year terms and two members shall serve two year terms. Their successors shall be appointed to two year terms.

B. Two alternate members shall be appointed by the City Commission for terms of one year. In the absence or disability of a regular member, an alternate member may be called to sit and act in his place by the Chairman of the Committee. Whenever feasible, one of the two alternates shall be a registered architect.

C. Members of the Committee shall be subject to removal, for cause by the City Commission after a hearing before the City Commission. Unexcused absence for three consecutive meetings shall constitute cause for removal.

Section 158.03 ORGANIZATION.

The Architectural Appearance Committee shall elect a Chairman and Vice-Chairman to preside at its meetings, and shall formulate its rules and regulations for the conduct of its business. The members of the Committee shall have the following qualifications:

A. Each member must be a resident of the City of Pompano Beach or a practicing architect with his/her principal place of business located in the City of Pompano Beach.

B. At least two (2) members of the Committee shall be Florida registered architects and at least one (1) other member shall be a Florida registered landscape architect. The remaining members of the Committee shall be a Florida registered architect, a Florida registered landscape architect, a Florida registered professional engineer, a planner, a building contractor, a Florida registered real estate sales person or broker or possess a similarly-related background.

Section 158.04 POWERS AND DUTIES.

A. Majority to Review Plans. The Architectural Appearance Committee shall recommend standards acceptable to the City Commission relative to plans and specifications to be submitted in connection with application for structures, public or private as hereinafter required. Except single family dwellings and duplex dwellings as excluded by the City's Zoning Code from development review, the signature of the Chairman or presiding Committee members on each set of plans and specifications required to be submitted with each application for a permit, shall be pre-requisite to the issuance of any building permit required to be reviewed by the Committee. The Architectural Appearance Committee may require such changes in said plans and specifications as in its judgment may be requisite and appropriate to the maintenance of a high standard of architecture, beauty and harmony as established by the standards adopted by the City Commission for the guidance of the Committee.

B. Plans and Specifications. Except single family dwellings and duplex dwellings as excluded by the City's Zoning Code from development review, every application for a permit to erect a building or structure or to materially alter a front or side elevation of any existing building or structure in the City of Pompano Beach or in some fashion change the exterior appearance of any building or structure shall, unless subject to review by the Director of the Department of Development Services as provided in paragraph "D" of this section, be accompanied by six sets of detailed plans plus color and material samples. If the plans submitted do not furnish sufficient information adequately to show the scope of the planned construction for which a permit has been requested, then there shall be furnished, in addition to the six sets of detailed plans, one set of detailed specifications for such proposed work; both the plans and specifications shall be prepared by a registered architect or registered engineer, qualified under the laws of the State of Florida to prepare such plans and specifications and no permit therefor shall be issued until such plans (and specifications, when required) shall have been previously approved by the Committee as provided herein above. No plans or specifications in violation of

this or any other ordinance of the City of Pompano Beach shall be approved. No permit for the construction or addition to any building (excluding single-family and duplex dwellings) shall be issued until and unless the plans therefor have been approved by the Architectural Appearance Committee as being in accordance with the standards as provided for in this section.

(C) The Architectural Appearance Committee shall approve, approve with conditions, or disapprove the issuance of a building permit in any matter subject to its jurisdiction after consideration of whether the following criteria are complied with:

(1) The plan for the proposed structure or project is in conformity with good taste, good design and, in general, contributes to the image of Pompano Beach as a place of beauty, spaciousness, harmony, taste, fitness, broad vistas and high quality.

(2) The proposed structure or project is not, in its exterior design and appearance, of inferior quality such as to cause the nature of the local environment or evolving environment to materially depreciate in appearance and value.

(3) The proposed structure is in conformity with the standards of this Code and other applicable ordinances insofar as the location and appearance of the buildings and structures are involved.

If the above criteria are met, the application shall be approved. Conditions may be applied when the proposed building or structure does not comply with the above criteria and shall be such as to bring said structure or project into conformity. If any application is disapproved, the Architectural Appearance Committee shall detail in its findings the criterion or criteria that are not met. The action taken by the Committee shall be reduced to writing, signed by the Chairman, and a copy thereof made available to the applicant upon request.

(4) The proposed structure or project is in harmony with the proposed developments in the general area, with the comprehensive plan for the City of Pompano Beach, Florida, and with the criteria set forth in "Supplemental Criteria of the Architectural Appearance Committee," as may be from time to time amended or revised, which is described in Section 158.06. Any decision of the Committee must comply with such Supplemental Criteria of the Architectural Appearance Committee. The Supplemental Criteria of the Architectural Appearance Committee may be amended from time to time by ordinance regularly adopted upon action initiated by the City Commission. If the Architectural Appearance Committee shall make a recommendation to the City Commission for any such changes, the City Commission shall consider same and

may adopt such recommendations with or without modifications by ordinance, or may reject same.

(D) Minor Construction. Minor construction and alternations shall be exempt from review by the Committee. However, the Department of Development Services Director or his designee shall approve, approve with conditions or deny the issuance of a building permit for minor construction and alterations. Minor construction and alterations are as follows:

(1) Rehabilitation of existing facades.

(2) New construction that does not exceed 5,000 sq. ft. of floor area.

(3) Additions (attached or detached) that contain 25% of the floor area of the primary building but not to exceed 25,000 sq. ft.

(4) Landscape projects including decks and patios that contain less than 10,000 sq. ft.

(5) Construction, repair, or rehabilitation of new or existing walls, fences, at-grade parking lots, canopies, and awnings.

(6) Installation of any mechanical or plumbing equipment that is visible from the public right-of-way. This review is limited to methods of screening the equipment from public view.

(7) Signs which do not require an application for site plan approval, including changes in text.

The Department of Development Services Director's decision shall be based upon the criteria set forth in paragraph "C" of this section. An appeal of the Director's decision shall be considered by the Architectural Appearance Committee.

Any person aggrieved by a decision of the Director may file a Notice of Appeal with the Clerk of the Committee within fourteen (14) days after the decision was made by the Director. The Notice of Appeal shall specify the action taken by the Director and in what respect the appellant is aggrieved by such action and the action which appellant desires the Committee to make with respect to the decision of the Director. The Committee shall act as an appeal board from the Director's decision within thirty (30) days of the Notice of Appeal being filed and shall either affirm the action of the Director, affirm it with modifications, reverse it, or remand it for further consideration.

Section 158.05 MEETINGS AND RECORDS.

(A) The Architectural Appearance Committee shall meet at least twice per month, at the call of the Chairperson or, in his or her absence, the Vice-Chairperson, or more often as may be required in order to consider applications pending without unnecessary delay. All meetings shall be open to the public and the order of business and procedure to be followed shall be as prescribed within the rules and regulations to be adopted by the Committee. A majority of the Committee shall constitute a quorum and the affirmative vote of a majority of the Committee shall be necessary for any action thereof. The City Manager is authorized and empowered to appoint a secretary for the Committee. A record of the proceedings of the Committee shall be kept.

(B) Failure of the Committee to take final action within fifteen (15) days of sufficient plans and specifications being filed with the Committee shall constitute approval of such plans and specifications by the Committee.

(C) Any person aggrieved by a decision of the Architectural Appearance Committee may file a Notice of Appeal with the City Clerk within fourteen (14) days after the approved minutes of the meeting at which the decision was made have been filed with the City Clerk. The Notice of Appeal shall specify the action taken by the Committee and in what respect the appellant is aggrieved by such action and the action which appellant desires the City Commission to make with respect to the decision of the Committee. Any City Commissioner may also file a Notice of Appeal within fourteen (14) days after the approved minutes of the meeting at which the decision was made have been filed with the City Clerk. The City Commission shall sit, in open session, as an appeal board from the Architectural Appearance Committee within thirty (30) days of the Notice of Appeal being filed and shall either affirm the action of the Architectural Appearance Committee, affirm it with modifications, reverse it, or remand it for further consideration.

Section 158.06 SUPPLEMENTAL CRITERIA.

The City of Pompano Beach hereby adopts by reference the Supplemental Criteria of the Architectural Appearance Committee, a copy of which is attached hereto marked Exhibit "A" and made a part hereof, and additional copies of which are available on file in the office of the City Clerk for public reference and inspection, as and for an ordinance of the City of Pompano Beach. Said provisions and regulations are hereby adopted and incorporated into the Code of Ordinances of the City of Pompano Beach without further codification as if fully set out herein at length.

Section 158.07 CHANGES IN PLANS AND SPECIFICATIONS.

The requirements of this ordinance are in addition to any other requirement of the Code of Ordinances of the City of Pompano Beach, such as the Zoning Code and the Building Code. Approval by the Architectural Appearance Committee of a given set of plans and specifications does not necessarily constitute evidence of applicant's compliance with other requirements of the Code of the City of Pompano Beach.

Section 158.08 VIOLATIONS.

(A) It shall constitute a violation of this ordinance should any owner, agent or person having charge of or occupying any lot or premises covered by the provisions of this ordinance refuse or neglect, for a period of fifteen (15) days after receiving notice from the City of any violation hereof, fail to cure such violation without further notice.

(B) In the case of such violation, as above stated, the City may then cause the work of removal, replacement and/or cutting to be done and the cost of such work shall forthwith be paid by such owner, agent or other person.

(C) Upon failure of the owner, agent or other person to promptly pay the cost of such work, the City Clerk shall cause an affidavit to be placed upon the public records of Broward County describing the work done and the amount of cost incurred by the City. Such affidavit shall constitute a claim of lien against the property, forecloseable in the manner of mechanic's liens, together with the costs of the action and all reasonable attorneys' fees incurred by the City.

(D) Any notices required by this ordinance may be mailed to the owner of record as shown on the tax roll of Broward County, Florida or may be posted upon the premises by affixing in any conspicuous place on any structure located on such premises or may be given by leaving a copy of such notice with any person of legal age occupying or having charge of the premises.

(E) Additionally, the City of Pompano Beach Code Enforcement Division shall have the jurisdiction and authority to hear and decide alleged violations of Chapter 158 of the City of Pompano Beach Code which alleged violations may be processed in accordance with the provisions of Chapter 37 of the City of Pompano Beach Code of Ordinances.

Section 158.09 PENALTY.

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance may be fined as provided by Section 10.99, "General Penalty", of

the Pompano Beach Code of Ordinances. Each day a violation exists shall constitute a separate offense.

The provisions of this ordinance shall be in addition to such other remedies as may be provided for by law or ordinance.

**SECTION 2:** All ordinances, resolutions, or parts thereof in conflict herewith are hereby repealed.

**SECTION 3:** If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

**SECTION 4:** This Ordinance shall become effective upon passage.

**PASSED FIRST READING** this 23rd day of June, 1998.

**PASSED SECOND READING** this 28th day of July, 1998.

WILLIAM F. GRIFFIN, MAYOR

ATTEST:

MARY L. CHAMBERS, CITY CLERK

GBL:amd
7/29/98
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