

A Model Municipal Historic Preservation Ordinance

Sec. I. Short Title.

This chapter shall be known as and may be cited as the “City¹ of ANYTOWN Historic Preservation Ordinance.”

Sec. II. Declaration of Legislative Intent.

It is hereby declared as a matter of public policy that the protection, enhancement and perpetuation of properties of aesthetic, archaeological, architectural, cultural, historical, and paleontological merit are in the interests of the health, prosperity, and welfare of the people of ANYTOWN. Therefore, this chapter is intended to:

- (1) Effect and accomplish the protection, enhancement, and perpetuation of buildings, structures, improvements, landscape features, and archaeological and paleontological resources of sites and districts that represent distinctive elements of the City’s architectural, cultural, economic, natural, political, prehistoric, religious, scientific, and social history;
- (2) Safeguard the City’s architectural, cultural, economic, natural, political, prehistoric, religious, scientific, and social heritage, as embodied and reflected in such individual sites, districts, and archaeological zones;
- (3) Foster understanding and civic pride in the accomplishments and events of the past;
- (4) Protect and enhance the City’s attraction to visitors and residents, encourage appropriate redevelopment, and provide support and stimulus to the City’s economy; and,
- (5) Promote the use of individual sites and districts for the education, pleasure, and welfare of the people of the City of ANYTOWN.

Sec. III. Scope of Regulations.

This chapter is intended to and shall govern and be applicable to all property located within the City of ANYTOWN, Broward County, Florida. Nothing contained herein shall be deemed to supercede or conflict with applicable building and zoning codes. Provisions contained herein shall be cumulative and read in conjunction with other provisions of the City of ANYTOWN Code and any applicable provisions of the Broward County Code and laws of the State of Florida.

The Administrator and County Historic Preservation Officer of the Broward County Historical Commission shall have the legal authority to initiate or appear as a party or witness, in an official capacity, in any administrative or legal proceeding in any matter arising out of the City of ANYTOWN Historic Preservation Ordinance. In such matters, the Administrator and County Historic Preservation Officer may be represented by the County Attorney.

¹ The word “City” can be substituted for “Town” anywhere in this draft document.

Sec. IV. Definitions.

- (1) *Archaeological Materials*: Human-manufactured objects or natural objects altered by human activity that are 100 years of age or more. Consistent with state law, unmarked human remains and associated burial artifacts and materials that are 75 years of age or older and discovered during lawful archaeological activities may also be considered archaeological materials for the purposes of this ordinance.
- (2) *Archaeological Zone*: An area designated by this chapter that is likely to yield largely subsurface information on the prehistory and history of the City based on prehistoric and historic settlement and land use patterns within the City as determined in consultation with the Broward County Historical Commission. These zones will tend to conform to certain natural physiographic features that were the focal points for prehistoric and historic activities.
- (3) *Certificate of Appropriateness (COA)*: A certificate or permit issued by the City's Historic Preservation Board permitting certain alterations or improvements to a designated individual site or property within a designated district;
 - (A) *Regular Certificate of Appropriateness*: A regular COA shall be issued by the staff assigned to the Historic Preservation Board, without the need for Board approval, based upon certain guidelines for their issuance approved by the Board.
 - (B) *Special Certificate of Appropriateness*: For all applications for a special COA involving the demolition, removal, reconstruction, new construction, or other actions described in the guidelines promulgated by the Historic Preservation Board at an individual site or a site within an historic district, a special COA is required that is issued directly by the Board.
- (4) *Certificate to Dig (CTD)*: A certificate approved by the Historic Preservation Board, with the advice and consultation of the Broward County Historical Commission, for certain digging and excavation actions or projects that may involve a known or unknown archaeological or paleontological site or archaeological or paleontological resources within a designated archaeological or paleontological zone, designated individual historic site or designated historic district.
- (5) *Contributing Structures*: Structures within an historic district that retain aesthetic, archaeological, architectural, cultural, or historical significance and are integral to the identity of the historic district.
- (6) *Demolition*: The complete constructive removal of a building, structure, significant landscape feature, or other significant improvement to real property within a designated archaeological zone, designated individual historic site or designated historic district.
- (7) *Districts*: A collection of two or more archaeological zones, buildings, structures, landscape features or other improvements that are concentrated within proximity to one another and have been designated collectively pursuant to this chapter.
- (8) *Exterior*: All outside surfaces of a building or structure.
- (9) *Florida Master Site File*: An archive and database of all known archaeological and historical sites and districts recorded within the State of Florida that is maintained by the Florida Department of State Division of Historical Resources and is organized alphabetically by county and numerically, as recorded.

- (10) *Guidelines for Preservation*: As promulgated and amended, The U.S. Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings and related U.S Department of the Interior standards and guidelines documents.
- (11) *Historic Preservation Board*: A board of citizens created by this chapter, as described herein, to administer the Historic Preservation Ordinance, with the assistance of City staff.
- (12) *Historic Survey*: The body of information contained within the *Historic Properties Survey of ANYTOWN, Florida*, as well as other historic properties listed by the Broward County Historical Commission and the Broward County Planning Council as Local Areas of Particular Concern, and properties listed within the State of Florida's Florida Master Site File, and any other studies within the City that describe properties of aesthetic, archaeological, architectural, cultural, historical, and paleontological merit.
- (13) *Individual Site*: An archaeological or paleontological zone, historic building, structure, significant landscape feature, place, or other improvement to real property that has been designated as an individual site pursuant to this chapter. Under provisions of this chapter, interior spaces may be regulated only where a building or structure is a designated individual site and when so specified in the designation report.
- (14) *Landscape feature*: Any landscape improvement or vegetation including, but not limited to, courtyards, decorative stone, earthen mounds, exterior lighting, fences, gates, outbuildings, planters, plantings, shrubbery, sidewalks, signage, statuary, street furniture, trees, and walls.
- (15) *National Register of Historic Places*: A federal government listing maintained by the U.S. Department of the Interior that catalogues individual archaeological, paleontological, and historical sites, structures, landscape features and districts that have attained a quality of significance as determined by the National Historic Preservation Act of 1966, as amended.
- (16) *Non-Contributing Structures*: Structures within an historic district that are not historically or architecturally compatible with other contributing structures within the district.
- (17) *Ordinary Repairs and Maintenance*: Work done to prevent deterioration of a building or structure or decay or damage to a building or structure or any part thereof by restoring the building or structure as nearly as practicable to its condition prior to such deterioration, decay, or damage.
- (18) *Owner of a Designated Property*: As reflected on the current Broward County tax rolls or current title holder.
- (19) *Paleontological Zone*: An area designated by this chapter that is likely to yield largely subsurface information on the prehistory and fossil history of the City based on prehistoric environmental patterns within the City as determined in consultation with the Broward County Historical Commission. These zones will tend to conform to certain geological features and deposits.
- (20) *Undue Economic Hardship*: The occurrence when the failure to issue one of the several certificates would place an onerous and excessive financial burden upon

the property owner that would amount to a taking of the owner's property without just compensation.

Section V. Historic Preservation Board – Created and Established.

There is hereby created an Historic Preservation Board (hereinafter “the Board”) as a governmental agency of the City of ANYTOWN. The Board is hereby vested with the power, authority, and jurisdiction to designate, regulate, and administer aesthetic, archaeological, architectural, cultural, historical, and paleontological resources within the City of ANYTOWN, as prescribed by this chapter under the direct jurisdiction and legislative control of the City Commission.

Section VI. Same – Members.

- (1) The Board shall consist of seven (7) members appointed by the City Commission. The City Commission should attempt to appoint persons with education, experience, training, and interest in the fields of archaeology, architecture, art, history, law, natural history, and real estate or other individuals with related backgrounds or from the business, financial, and other segments of the community who, by virtue of their profession, business or other ties to the City of ANYTOWN have demonstrated a concern and interest in historic preservation within the City.
- (2) Each member of the City Commission shall have one appointment to the Board. The two remaining at-large Board member appointments shall be made by a majority vote of the City Commission; the City may chose to allow a representative of the Broward County Historical Commission to serve as one of the two at-large Board members.
- (3) The term of office for Board members shall be for three years for each member or for the term of office of the appointing member of the City Commission. If a City Commissioner shall leave office, the Board member appointed by the former City Commissioner shall remain on the Board until such time as the new City Commissioner shall make a replacement appointment or until the expiration of the board member's term, whichever comes first.
- (4) Except where otherwise provided in the City Charter, general or special law, an appointed member of the Board who has three (3) consecutive absences or misses four (4) meetings within one calendar year shall be automatically removed as a member of the Board. Automatic removal of a Board member shall cause a vacancy to exist in the membership of the Board that shall be recognized by the Chair, whose position is described below, and a quorum shall be deemed a simple majority of the active membership that remains.
- (5) A member of the City Commission, the City Manager and the City Clerk, or their designees, may serve as *ex officio* non-voting members of the Board. An *ex officio* member may be selected by a vote of the Board to serve as an acting Chair, until such time as an appointed Board member is chosen by the Board. The City Attorney or the City Attorney's designee may provide legal guidance to the Board in carrying out its powers and duties.

Section VII. Same – Organization.

The members of the Board shall annually elect a Chair who shall serve at the pleasure of the Board and other such officers as may be deemed necessary or desirable. The City Manager shall provide adequate professional staff for the operational support of the Board, including but not limited to a professional historic preservation officer and staff and representatives from the departments of Development Services, Parks and Recreation, and Public Works. Minutes of each Board meeting shall be kept and prepared under the supervision and direction of the Board, and copies of such minutes shall be filed with the City Clerk.

Section VIII. Same – Rules and Regulations.

The Board shall make and prescribe such rules and regulations reasonably necessary and appropriate for the proper administration and enforcement of the provisions of this chapter. Such rules and regulations shall conform to the provisions of this chapter and shall not conflict with the Constitution and Laws of the State of Florida, and shall govern and control the procedures, hearings, and actions of the Board. No such rules and regulations shall become effective until a public hearing has been held upon the proposed rules and regulations, and any amendments or modifications thereto, and the same have been approved by the City Commission and filed with the City Clerk. Upon approval of the City Commission, such rules and regulations shall have the force and effect of law within the City of **ANYTOWN**. The Board shall prescribe forms for use by applicants in compliance with the provisions of this chapter. The Board may authorize any one (1) of its members or staff to administer oaths and certify official acts.

Section IX. Same – Powers and Duties.

The Historic Preservation Board shall have the following enumerated powers and duties:

- (1) Adopt or amend rules of procedure.
- (2) Designate individual sites, districts, archaeological and paleontological zones.
- (3) Issue or deny Certificates of Appropriateness and Certificates to Dig.
- (4) Approve historical markers and provide other recognition for individual sites, districts, and zones.
- (5) Recommend zoning and building code amendments to the proper authorities that assist in promoting historic preservation.
- (6) Establish guidelines for preservation and criteria for the issuance by staff of regular certificates of appropriateness.
- (7) Promote the awareness of historic preservation and its community benefits.
- (8) No actions of this Board will supercede or be construed as superceding the authority of the City Commission or the Board of County Commissioners.
- (9) Review and update the historic survey for its quality and professional merit, and validate the findings of the survey as *bona fide* and sincere.
- (10) Implement the authority of this chapter and fulfill the tasks set forth for this Board by the City Commission in this chapter and other ordinances.
- (11) Record and maintain records of the Board's actions and decisions.
- (12) Follow and abide by the laws of the United States of America, the State of Florida, Broward County, and the City of **ANYTOWN**.

- (13) Provide an annual report to the City Commission concerning the Board's actions and decisions.
- (14) Review and make recommendations to city staff regarding grants and financial incentives available to property owners and to the City that assists in promoting historic preservation within the City.

Section X. Designation Process and Procedure.

- (1) *Criteria:* The Board shall have the authority to designate areas, places, buildings, structures, landscape features, archaeological sites, roadways, and other improvements or physical features as individual sites, districts or zones that are significant in the City of ANYTOWN's archaeology, architecture, culture, and human and natural history and that possess an integrity of location, design, setting, materials, workmanship or association, or:
 - (A) Are associated with distinctive elements of the agricultural, architectural, artistic, cultural, economic, natural, political, prehistoric, religious, scientific, and social history that have contributed to the pattern of history in the City of ANYTOWN, Broward County, South Florida, the State of Florida, or the nation; or
 - (B) Are associated with the lives of persons significant in our past; or
 - (C) Embody distinctive characteristics of a type, period, style, or method of construction or work of a master; or that possess high artistic value; or that represent a distinguishable entity whose components may lack individual distinction; or
 - (D) Have yielded, or are likely to yield, information in history, prehistory, or paleontology; or
 - (E) Are listed in the National Register of Historic Places or as a Broward County Archaeological or Historical Cultural Resource Site.

- (2) *Properties Not Generally Considered; Exceptions:* Certain properties, such as cemeteries, birthplaces, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, properties commemorative in nature, and properties that have achieved significance within the last fifty (50) years², will not normally be considered for designation. However, such properties will qualify if they are integral parts of districts that do meet the criteria, or if they fall within the following categories:
 - (A) A religious property deriving primary significance from architectural or artistic distinction of historical importance.
 - (B) A building or structure removed from its location but which is primarily significant for its architectural value, or is the surviving structure most importantly associated with an historic event or person.

² Some municipalities may choose to use a term of less than fifty (50) years. Cities elsewhere in the country have chosen ranges of between thirty (30) and fifty (50) years.

- (C) A birthplace or grave of an historical figure of outstanding importance if there is no other appropriate site or building directly associated with his/her productive life.
 - (D) A cemetery which derives its primary significance from graves of persons of transcendent importance, from age, distinctive design features, or from association with historic events.
 - (E) A property primarily commemorative in intent if design, age, tradition, or symbolic value has invested it with its historical significance.
 - (F) A property or district achieving significance within the past fifty (50) years if it is of exceptional importance.
- (3) *Investigation and Designation Report*: Prior to the designation of an individual site, a district or a zone, an investigation and designation report must be filed with the Board. The format of the designation report may vary according to the type of designation; however, all reports must address the following:
- (A) The aesthetic, archaeological, architectural, cultural, historical, or paleontological significance of the property or properties being recommended for designation;
 - (B) A recommendation for boundaries for districts and zones and an identification of the boundaries of individual sites being designated; and,
 - (C) A recommendation of standards to be adopted by the Board in carrying out its regulatory function under this chapter with respect to certificates of appropriateness and certificates to dig.
 - (D) If clearly specified, certain identifiable elements of a site, district, or zone may be exempt from the necessity of a certificate of appropriateness or a certificate to dig because of the particular circumstances of the property or properties to be designated.
 - (E) Properties previously designated by the Historical Commission, the State of Florida, or listed on the National Register of Historic Places may have those reports previously prepared adopted by the Board as a City designation report.
- (4) Where a report is filed recommending designation of a district, the report must identify those properties, if any, within the district that are not historically or architecturally compatible with other significant, or “contributing,” structures in the district and denote them as non-contributing structures. The standards for regulating such non-contributing properties shall provide that certificates of appropriateness or certificates to dig may be required only for new construction on such properties.
- (5) All reports shall take into consideration the effect of all projected, proposed, or existing public and private improvements and developmental or renewal plans on the integrity of the historic district or the integrity of archaeological or paleontological zones.
- (6) *Procedure*.
- (A) *Petition of the Owner*: The owner of any property in the City of ANYTOWN may petition the Board for designation of his or her property as an individual site, district, or zone provided that the owner appears before the Board with sufficient information to warrant the investigation of the property for future designation and

- the Board finds that the property may be worthy of designation. The Board shall, based upon its findings, either direct the staff to begin the designation process or deny the petition. Nothing in this subsection shall be deemed to restrict the power of the Board to initiate the designation process pursuant to this section.
- (B) *Directive of the Board*: The Board shall, upon recommendations from staff or the acceptance of a petition pursuant to part (6), subsection (a) of this section, direct staff to begin the designation process by preparing a designation report, pursuant to part (3) of this section and any other standards and guidelines the Board may deem necessary, and submitting the designation report according to the procedures described herein.
- (C) *Notification of Owner*: For each proposed designation of an individual site, a district, or a zone, the Board is encouraged to obtain the permission of the property owner or owners within the proposed designation area, and is responsible for mailing a copy of the designation report to the owner or owners as notification of the Board's intent to consider designation of the proposed site, district, or zone at least fifteen (15) days prior to a public hearing held pursuant to this section.
- (D) *Notification of governmental agencies*: Upon filing of a designation report, the Board shall immediately notify the appropriate City and County departments, including agencies with building, demolition, environmental, planning, public works, and zoning powers, that may be affected by said filing.
- (E) *Notification of a Public Hearing*: For each individual site, district, or zone proposed for designation, a public hearing must be held no sooner than fifteen (15) days and within sixty (60) days from the date a designation report has been filed with the Board. Owners of record or other parties having an interest in the property or properties proposed for designation, if known, shall be notified of the public hearing by certified mail to the last known address of the party being served; however, failure to receive such notice shall not invalidate the same as such notice shall also be perfected by publishing a copy thereof in a newspaper of general circulation at least ten (10) days prior to the hearing. Owners shall be given an opportunity at the public hearing to object to the proposed designation.
- (F) *Requirement of prompt decision and notification*: Within seven (7) days of a public hearing on a proposed individual site, district, or zone, the Board shall by written resolution state its decision to approve, deny, or amend the proposed designation and shall direct the Secretary of the Board to notify the following of its actions with a copy of the resolution:
- (1) The appropriate City and County agencies with building, demolition, environmental, planning, public works, and zoning powers that may be affected by this action,
 - (2) The City Clerk,
 - (3) The Broward County Historical Commission Administrator,
 - (4) The owner or owners of the affected property or properties and other parties having an interest in the property or properties, if known, and
 - (5) The Broward County Property Appraiser.
- (G) *Amendment or Rescission*: The Board may amend or rescind any designation provided it complies with the same manners and procedures used in the original designation.

- (H) *Moratorium*: Upon the filing of a designation report by the staff, the owner or owners of the real property that is the subject matter of the designation report or any individual or private or public entity shall not:
 - (1) Erect any structure on the subject property,
 - (2) Alter, restore, renovate, move, or demolish any structure or any part of a structure on the subject property until such time as final administrative action, as provided by this chapter, is completed.
- (I) *Recording of Designation*: The Board shall provide the Clerk of the Circuit Court with all designations for the purpose of recording such designation and the Clerk of the Circuit Court shall thereupon record the designation according to law.

Section XI. Application for Certificates of Appropriateness and Certificates to Dig; Demolition.

- (1) *Certificate Required as Prerequisite to Alteration, Etc.*: No building, structure, improvement, landscape feature or archaeological or paleontological site within the City of ANYTOWN that is designated pursuant to Section X of this chapter shall be altered, constructed, demolished, excavated, moved, rehabilitated, renovated, or restored until an application for a certificate of appropriateness or certificate to dig has been submitted that describes the proposed alteration, construction, demolition, excavation, movement or removal, rehabilitation, renovation, or restoration, or other similar actions, has been submitted to and approved by the Board or staff pursuant to the procedures in this section. Architectural features shall include, but are not limited to, the architectural style, scale, massing, siting, general design and general arrangement of the exterior of the building or structure, including the type, style, and color of roofs, windows, doors, and appurtenances. Architectural features shall include, when applicable, interior spaces where interior designation has been given pursuant to Section X. Landscape features and site improvements shall include, but are not limited to, subsurface alterations and excavations, fill deposition, paving, landscaping, walls, fences, courtyards, signs, and exterior lighting. As permitted in Section X and if specified in a designation report, certain identifiable elements of a site, district, or zone may be exempt from the necessity of a certificate of appropriateness or a certificate to dig. However, no certificate of appropriateness or certificate to dig shall be approved unless the architectural or engineering or other acceptable work plans for the proposed alteration, construction, demolition, excavation, movement or removal, rehabilitation, renovation, or restoration, or other similar actions, are approved by the Board.
- (2) *Board to Develop Procedures*: The Board shall develop procedures for making application for either a regular or special certificate of appropriateness or a certificate to dig.
- (3) *Standards for Issuance*: The Board shall adopt and may from time to time amend the standards by which applications for any certificate of appropriateness or certificate to dig are to be measured and evaluated. In adopting these guidelines, it is the intent of the Board to promote the maintenance, restoration, rehabilitation, renovation, and adaptive reuses appropriate to a property or properties, and compatible contemporary designs that are harmonious with the exterior architectural and landscape features and

improvements of neighboring buildings, structures, sites, and streetscapes. These guidelines shall also serve as criteria for staff to make decisions regarding applications for regular certificates of appropriateness and certificates to dig. All certificates of appropriateness and certificates to dig shall permit the staff to the Board and the representatives of other appropriate governmental agencies to inspect from time to time any work approved pursuant to this chapter.

- (4) *Regular Certificates of Appropriateness*: Based upon the guidelines for preservation, the designation report, a complete application for a regular certificate of appropriateness, any additional plans, drawings or photographs to fully describe the proposed alteration and any other guidelines the Board may deem necessary, the staff of the Board shall, within twenty-one (21) days from the date a complete application has been filed, approve or deny the application for a regular certificate of appropriateness by the owner or owners of a designated site or property within a district or zone. The findings of the staff shall be sent by regular mail to the applicant within three (3) days of the staff decision, accompanied by a statement in full regarding the staff's decision. The applicant shall have an opportunity to challenge the staff decision by applying through a written request for a special certificate of appropriateness within thirty-one (31) days of the staff's findings.
- (5) *Special Certificates of Appropriateness*: An applicant for a special certificate of appropriateness shall submit his or her application to the Board pursuant to Section X and accompany such application to the Board with full plans and specifications, site plans, and samples of materials as deemed appropriate by the Board to fully describe the proposed appearance, color, texture, or materials, and architectural design of the building and any courtyards, decorative stone, earthen mounds, exterior lighting, fences, gates, outbuildings, planters, plantings, shrubbery, sidewalks, signage, statuary, street furniture, trees, and walls or other structures or landscape features.
 - (A) The applicant shall provide adequate information to enable the Board to visualize the effect of the proposed action on the applicant's property and adjacent properties and streetscapes. If such application involves a designated archaeological or paleontological zone, the applicant shall provide full plans and specifications of work that may affect the surface and subsurface of the zone.
 - (B) The Board shall hold a public hearing upon an application for a special certificate of appropriateness affecting any City designated site, district, or zone. In such instances, notice and procedure of the public hearing shall be given to the property owner or owners by certified mail and to other interested parties by an advertisement in a newspaper of general circulation at least ten (10) days prior to the public hearing.
 - (C) The Board shall act upon an application within sixty (60) days of receipt of application materials adequately describing the proposed action. The Board shall approve, deny, or approve in modified form an application, subject to the acceptance of the modification by the applicant, or suspend action on the application for a period not to exceed thirty-one (31) days in order to seek technical advice from outside the Board members, allow the applicant to reconsider and propose revisions or modifications to the application, or for staff to meet further with the applicant to revise or modify the application.

- (D) The decision of the Board shall be issued in writing. Evidence of approval of the application shall be by certificate of appropriateness issued by the Board or the Board's staff representative to the applicant and, whatever its decision, notice in writing shall be given to the applicant and the appropriate City and County agencies with building, demolition, environmental, planning, public works, and zoning powers that may be affected by this action. When an application is denied, the Board's notice shall provide an adequate written explanation of its decision to disapprove the application. The Board shall keep a record of its actions under this chapter.
- (E) Unless otherwise provided in the authorizing language of a particular certificate of appropriateness at the discretion of the Board, both regular and special certificates of appropriateness shall expire after 365 days. Staff may grant extensions of time of up to an additional 180 days for restoration or rehabilitation work only upon satisfaction that the scope of the work originally approved has not changed and provided that a written request is filed and work is commenced before the expiration of the original certificate.
- (6) *Certificates to Dig.*
- (A) *When Required; How Granted:* Within an archaeological or paleontological zone or within an individual site or district when specified, any new construction, filling, digging, trenching, boring, tree or shrub removal, or any other activity that may alter or reveal surficial, embedded, or buried archaeological or paleontological material shall be prohibited without a certificate to dig. All permit applications to any City or County agencies with building, demolition, environmental, planning, public works, and zoning powers involving new construction, filling, digging, trenching, boring, tree or shrub removal, or other similar ground-disturbing activities within an archaeological or paleontological zone, or similar protected area within an individual site or district, shall require a certificate to dig before approval.
- (1) Based upon the language of the designation report for the property involved, the Board or representative staff shall approve, deny, or approve with modifications the certificate to dig, including consultation with and a recommendation by the Broward County Historical Commission Administrator, within thirty-one (31) days from the date the completed application is filed. A failure of the Administrator to reply within the time provided shall constitute an approval of the Board's action, absent circumstances preventing a timely response.
- (2) An approved certificate to dig may be subject to specified conditions, including, but not limited to, excavations and other studies by a qualified professional archaeologist.
- (3) If the certificate to dig is issued by staff without a Board hearing, the applicant may make a written request for a hearing before the Board to challenge the terms of the certificate to dig within thirty-one (31) days of the staff's findings. The Board shall convene within sixty (60) days after such a request is received by the Board to reconsider the original staff decision regarding the application for the certificate to dig. The decision of the Board that

reconsiders the application shall be reduced to writing within seven (7) days from the date of the Board's hearing.

- (B) *Approved Certificates to Dig*: Approved certificates to dig shall contain an effective date not to exceed ninety (90) days at which time the proposed activity must have begun. A certificate to dig may provide for additional time not to exceed six (6) months, with one six (6) month extension that may be approved by the Board, from the original date of issuance, after which time the certificate expires and a new application must be made.
- (C) *Work to Conform to Certificate to Dig; Stop Work Order*: All work performed pursuant to the issuance of a certificate to dig shall conform to the requirements of the certificate. It shall be the duty of the appropriate governmental agencies and the staff to the Board to inspect from time to time any work approved pursuant to this chapter to ensure compliance. In the event, work is not performed in accordance with such certificate, the City Manager shall appoint an official empowered to issue a stop work order on the Board's behalf and all work not in compliance with the certificate shall cease. No person, firm, business entity, agent, or contractor shall undertake any work on such project as long as the stop work order shall continue in effect.

(7) *Demolition*:

- (A) The demolition of a designated building, structure, improvement, site, district, or zone may not occur without the issuance of a special certificate of appropriateness, unless by a superceding order of a government agency or a court of competent jurisdiction.
- (B) Government agencies having the authority to demolish unsafe structures shall receive notice of designation of individual sites, districts, or zones pursuant to Section X. The staff of such agencies shall consult with the staff of the Historic Preservation Board before entering a demolition order or placing such properties on an official agenda. Such unsafe structures agencies shall not enter a demolition order unless they first determine in writing that there exists no feasible alternative to demolition.
- (C) The Board and the Historical Commission shall be deemed interested parties and shall receive ten days prior written notice of any public hearings conducted by said government agencies regarding the demolition of any designated property within the City. The Board may make recommendations and suggestions to such government agencies and the property owner or owners relative to the feasibility of and the public interest in preserving the designated property.
- (D) At the written request of the Board or the Historical Commission, such unsafe structures agencies shall continue any hearing on any designated property for not less than 30 days to allow consultation with the Board. If such an agency subjects a designated property to an order providing for demolition, the order shall also, at the written request of the Board or Historical Commission, establish a grace period of no less than 120 days to obtain a permit to repair the property, followed by no less than 180 days to substantially complete such repairs. After entry of such a repair or demolition order, such unsafe structures agencies shall have the jurisdiction and authority to grant additional extensions of the grace period, provided the agency is satisfied that the repair will be completed within a

- reasonable time. Nothing in this section shall prohibit any unsafe structures agency from entering an order requiring a designated property to be secured.
- (E) No permit for voluntary demolition of a designated building, structure, improvement, landscape feature, zone, site, or other protected element of a property shall be issued to the owner or owners thereof until an application for a special certificate of appropriateness has been submitted and approved pursuant to the procedures in this section. Refusal by the Board to grant a special certificate of appropriateness shall be evidenced by written order detailing the public interest which is sought to be preserved. The Board shall be guided by the criteria contained in part (7), subsection (F) herein. The board may grant a special certificate of appropriateness that may provide for a delayed effective date. The effective date shall be determined by the Board based upon the relative significance of the structure and the probable time required to arrange a possible alternative to demolition. During the demolition delay period, the Board may take such steps as it deems necessary to preserve the structure concerned, in accordance with the purposes of this chapter. Such steps may include, but shall not be limited to, consultation with interested persons and private organizations, civic groups, and other public agencies, recommendations for acquisition of the property by public or private agencies or organizations, and exploration of the possibility of moving one (1) or more structures or other features.
- (F) In addition to all other provisions of this chapter, the Board shall consider the following criteria in evaluating applications for demolition of designated properties:
- (1) Is the structure of such interest or quality that it would reasonably meet national, state, or local criteria for designation as an archaeological, architectural, or historical landmark?
 - (2) Is the structure of such design, craftsmanship, or material that it could be reproduced only with great difficulty and/or expense?
 - (3) Is the structure one (1) of the last remaining examples of its kind within the City or Broward County?
 - (4) Does the structure contribute significantly to the historic character of a designated district?
 - (5) Would retention of the structure promote the general welfare of the City by providing an opportunity for study of local history, architecture, or design or by developing an understanding of the importance and value of a particular culture or heritage?
 - (6) Are there definite plans for reuse of the property if the proposed demolition is carried out and what will be the effect of those plans on the character of the surrounding area?
- (8) *Building Permit Not to Issue Without a Certificate:* No building or other permit that affects any designated property within the City of **ANYTOWN** shall be issued by any City or County agency without an approved certificate of appropriateness or certificate to dig.
- (9) *Compliance of Work with Certificate Standards; Official and Staff:* All work performed pursuant to the issuance of any certificate of appropriateness shall conform to the requirements of the certificate. The City Manager shall hire an historic

preservation professional or designate an appropriate existing official, along with any other necessary staff, to assist the Board by making necessary inspections in connection with enforcement of this chapter and shall be empowered to issue a stop work order if performance is not in accordance with the issued certificate. No work shall proceed as long as a stop work order continues in effect. Copies of inspection reports shall be furnished to the Board and copies of any stop work orders shall be furnished to both the Board and the applicant. The official selected by the City Manager as staff for the Board shall be responsible for ensuring that any work not in accordance with an issued certificate of appropriateness or other provisions of this ordinance shall be corrected to comply with the certificate or provision prior to withdrawing the stop work order.

- (10) *Emergency and Temporary Measures*: For the purpose of remedying emergency conditions determined to be dangerous to life, health or property, nothing contained herein shall prevent the making of any temporary construction, reconstruction, or other necessary repairs to a designated building or site within the City of **ANYTOWN**, pursuant to an order of a government agency or a court of competent jurisdiction.
- (A) The owner of any designated property damaged by storm, fire or other calamity shall be permitted to stabilize the building immediately without Board approval and to repair, restore, reconstruct, or rehabilitate the property later under the normal review procedures to this chapter.
- (B) The City working with property owners and other government agencies are encouraged to develop a disaster management plan for designated properties within the City as outlined in the publication *Disaster Planning for Florida's Historic Resources* (2003), as revised, which was developed with the assistance of the Florida Department of State Division of Historic Resources.
- (11) *No Action to Constitute Approval*: If no action upon a completed application is taken within sixty (60) days from the date of its receipt, such application shall be deemed to have been approved and no other evidence of approval shall be needed. This time limit may be waived by mutual written consent of the applicant and the Board.
- (12) *Power of Review*: The Board shall have the authority to review applications for certificates of all property within the City of **ANYTOWN**, however owned, by either public or private parties. The purposes of this chapter shall apply equally to plans, projects, or work executed or assisted by any private party, governmental body or agency, department, authority or Board of the City, County, or State.
- (13) *Archaeological Sites or Districts*: To protect a designated archaeological site, district, or zone (hereinafter "site"), the Board may require any of the following:
- (A) An archaeological survey at the applicant's expense conducted by a qualified archaeologist approved by the Board containing an assessment of the significance of the archaeological site and an analysis of the impact of the proposed activity on the site;
- (B) Scientific excavation as an evaluation of the site at the applicant's expense by a qualified, professional archaeologist;
- (C) Mitigation measures to offset any potential detrimental effects from activities affecting the site;

- (D) Protection or preservation of all or part of the archaeological site for green space; and
- (E) Request the oversight, technical guidance, or intervention of the Broward County Historical Commission, as appropriate. The Board may also require an archaeological survey or scientific excavation as a precondition to consider further action.

Section XII. Standards for Archaeological Work; Discovery of Archaeological Sites.

(1) *Archaeological Work*: Archaeological surveys, assessments, excavations, and other work required by this ordinance shall be conducted by a qualified, professional archaeologist and be consistent with the guidelines for such work promulgated by the Broward County Historical Commission that are consistent with accepted professional standards and regulations developed by the Florida Department of State Division of Historical Resources and the United States Department of the Interior, or their successor agencies.

(2) *Sites Discovered During the Development Process*: In the event that archaeological materials are discovered by ground disturbing activities on any property within the City, such activities in the immediate vicinity of the archaeological site shall be discontinued and the Broward County Historical Commission notified. The Historical Commission shall review the site of the discovery and may require that the site be assessed by a qualified professional archaeologist at the expense of the property owner.

(3) *Unmarked Human Graves*: If a discovery is made of an unmarked human grave or graves, then the procedures for notifying the State Archaeologist and County Medical Examiner shall be followed, consistent with Chapter 872 of the Florida Statutes, as amended. The disposition of the remains and the preservation of the burial site shall be determined consistent with state law and with the advice and consent of the Broward County Historical Commission.

Section XIII. Economic Hardship.

Where, by reason of particular site conditions and restraints, or because of unusual circumstances applicable solely to the particular applicant's property, strict enforcement of the provisions of this chapter would result in serious undue economic hardship to the applicant, the Board shall have the power to vary or modify adherence to this chapter; provided always that its requirements ensure harmony with the general purposes hereof and will not adversely affect the City of **ANYTOWN**.

- (1) In any instance where there is a claim of undue economic hardship, the applicant shall submit, by affidavit, to the Board at least fifteen (15) days prior to the public hearing, the following information:
 - (B) For all property:

- (1) The amount paid for the property, the date of purchase and the party from whom purchased;
 - (2) The assessed value of the land and improvements thereon according to the two (2) most recent assessments;
 - (3) Real estate taxes for the previous two (2) years;
 - (4) Annual debt service, if any, for the previous two (2) years;
 - (5) All appraisals obtained for the property within the previous two (2) years by the applicant or on the applicant's behalf in connection with the purchase, financing, or ownership of the property;
 - (6) Any listing of the property for sale or rent, price asked and offers received, if any;
 - (7) Any consideration by the owner as to profitable adaptive uses for the property;
 - (8) All cost estimates or reports relating to the demolition of the property obtained within the previous two (2) years.
 - (9) All cost estimates or reports relating to the rehabilitation or restoration of the property obtained within the previous two years;
 - (10) All reports relating to the engineering, architectural or construction feasibility of rehabilitating or restoring the property obtained within the previous two (2) years; and
 - (11) All reports relating to the economic feasibility of restoring or rehabilitating the property obtained within the previous two (2) years, including market studies.
- (B) For income-producing property:
- (1) Annual gross income from the property for the previous two years;
 - (2) Itemized operating and maintenance expenses for the previous two (2) years; and
 - (3) Annual cash flow, if any, for the previous two (2) years.
- (2) The Board may require that an applicant furnish such additional information as the Board believes is relevant to its determination of undue economic hardship. The applicant shall permit access to the subject property for the purpose of inspections and/or appraisals required by the Board or City staff. In the event that any of the required information is not reasonably available to the applicant and cannot be obtained by the applicant, the applicant shall file with his affidavit a statement of the information which cannot be obtained and shall describe the reasons why such information cannot be obtained.

Section XIV. Maintenance of Designated Properties; Demolition by Neglect Prohibited.

- (1) *Ordinary Maintenance or Repair:* Nothing in this chapter shall be construed to prevent the ordinary maintenance or repair of any exterior elements of any building or structure that does not involve a change of design, appearance or material, and which does not require a building permit.
- (2) *Affirmative Maintenance Required:* The owner of a property designated pursuant to this chapter either individually or as a contributing part of a district or zone shall comply with all applicable codes, laws and regulations governing the maintenance of

property. It is the intent of this section to preserve from deliberate or inadvertent neglect the exterior features of such properties and the interior portions thereof when maintenance is necessary to prevent deterioration and decay of the property. All such properties shall be preserved against such decay and deterioration and shall be free from structural defects through prompt corrections of any of the following defects:

- (A) Facades that fall and injure the subject property, adjoining property, or members of the public;
 - (B) Deteriorated or inadequate foundations, defective or deteriorated flooring or floor supports, deteriorated walls or other vertical structural supports;
 - (C) Members of ceilings, roofs, ceiling and roof supports or other structural members that may rot, sag, split or buckle due to defective material or deterioration;
 - (D) Deteriorated or ineffective waterproofing of exterior walls, roofs, foundations or floors, including broken, unsecured or missing windows or doors;
 - (E) Any fault or defect in the property that renders it structurally unsafe, insufficiently protected from weathering, or not properly watertight.
- (3) *Undue Economic Hardship*: A property owner who believes that the application of this section create an undue economic hardship may apply for a variance or modification under section XIII.
- (4) *Enforcement*:
- (A) *Notice of Administrative Enforcement*: When a City of **ANYTOWN** code enforcement officer learns of a violation of Section (2) above, that officer shall provide written notice of the violation to the owner, with specific written details of the corrective action necessary to remedy the violation. Such notice shall be given personally, by registered or certified mail, return receipt requested, or by posting on the property when the address of the owner cannot be located. The property owner shall have 30 days from the date of such notice to perform the corrective action. Thereafter, the code enforcement officer may issue a civil citation in accordance with the City's code.
 - (B) *Action for Injunction and Remedial Relief; Lien on Property*: If the property owner fails to take corrective action within the 30-day period provided in section (4)(A), the City of **ANYTOWN** may file an action seeking: (1) An injunction ordering the property owner to take corrective action; (2) An order authorizing the City to enter onto the property to make corrective actions; and, (3) Civil penalties.

The Court shall order an injunction providing such remedies if the City proves that the owner has violated this ordinance and such violation threatens the integrity or existence of an individual site or a contributing structure within a district. Such civil action may be initiated in the name of the City at the discretion of the City Manager upon an affirmative vote of a majority of the Board.

Settlements of such lawsuits may be obtained in the same manner. Nothing herein shall prevent the City Commission from initiating or assuming direction of the lawsuit, at its discretion. In the event that the Court authorizes the City to enter onto the property to take the required corrective action, the Court shall also

order that the cost of the corrective action shall constitute a lien against the property, accruing interest at the statutory rate for judgments until satisfied.

- (C) *Civil Penalties.* Violation of this section shall be punished by a civil penalty of five hundred dollars. After expiration of the thirty day period provided in section (4)(A), each day that the corrective action is not taken shall constitute a separate violation.

Section XV. Appeals.

Within twenty (20) days of the written decision of the Board, an aggrieved party may appeal the decision by filing a written notice of appeal with the City Clerk. The notice of appeal shall state the decision that is being appealed, the grounds for the appeal, and a brief summary of the relief that is sought. Within sixty (60) days of the filing of the appeal or the first regular City Commission meeting that is scheduled, whichever is later in time, the City Commission shall conduct a public hearing at which time the City Commission may affirm, modify or reverse the decision of the Board. Nothing contained herein shall preclude the City Commission from seeking additional information prior to rendering a final decision.

The decision of the City Commission shall be in writing and a copy of the decision shall be forwarded to the Board and the appealing party. Within the time prescribed by the appropriate Florida Rules of Appellate Procedure, a party aggrieved by a decision of the City Commission may appeal an adverse decision to the Circuit Court in and for Broward County. The party taking the appeal shall be required to pay to the City Clerk the sum of one hundred and fifty dollars (\$150.00) to defray the costs of preparing the record on appeal.

Section XVI. Penalties; Settlement Authority for Settling Civil Penalties.

Failure by an owner of record or any individual, corporation, public or private entity to comply with any provisions of this chapter shall constitute a violation hereof and shall be punishable by civil or criminal penalties including a fine not more than five hundred dollars (\$500.00) per day for each day the violation continues and including a requirement that any work performed contrary to this chapter must be removed and the property returned to its condition prior to commencement of said action.

The Board has the authority to settle any tickets or civil penalties issued to enforce this section or any other provision of this chapter. In making such a decision the Board shall consider the likelihood of prevailing and whether compliance was obtained.

Section XVII. Incentives; Conservation Easements; Trust Fund.

- (1) The Board and its staff shall encourage and assist property owners within the City in the nomination of eligible income-producing properties to the National Register of Historic Places in order to make available the federal investment tax credits for

certified rehabilitations of historic properties pursuant to the Tax Reform Act of 1986 or any other benefits offered by local, state or federal government programs or by non-profit organizations to such properties.

- (2) It is the policy of the City of **ANYTOWN** to develop financial incentives to encourage the policies of this chapter and to assist the owners of designated properties, including those listed by the Historical Commission or within the National Register of Historic Sites and within the City's limits, through the development a Conservation Easement Program to obtain applicable local, state and federal tax benefits, pursuant to sections 193.505 and 704.06, Florida Statutes, as amended, and any other governing law, provided that the City Commission shall approve the acceptance, terms, and conditions of any conservation easement before it was accepted by the City.
- (3) The Board may promulgate the rules for accepting such easements and covenants that shall be used by the City upon approval by the City Commission. The Board is authorized to apply for grants and other sources of funding for the creation of historic grant and loan programs.
- (4) Any funds received shall be placed in an Historic Preservation Board Trust Fund and used only for purposes consistent with this chapter or for which they were received. The Board is authorized to promulgate rules and model agreements for such a program which shall be used by the City upon approval by the City Commission.

Section XVIII. Relief from Building, Development, and Zoning Regulations.

- (1) Buildings, structures, improvements and properties that are designated archaeological or historical sites, districts or zones under this ordinance or by Broward County, the State of Florida, or are listed on the National Register of Historic Places may be eligible for administrative variances, special consideration, or other forms of relief from applicable City, County, or State building, development or zoning codes, ordinances or regulations, or other applicable laws, such as the federal Americans with Disabilities Act, as amended. Such eligible consideration may be as follows:
 - (A) *Repairs and Alterations.* Repairs, alterations and additions necessary for the preservation, restoration, rehabilitation or continued use of a building or structure may be made without conformance to the technical requirements of the Florida Building Code when the proposed work has been issued a certificate of appropriateness by the Board, provided that:
 - (1) The restored building or structure will be no more hazardous based on consideration of life, fire and sanitation safety than it was in its original condition and the Board has been advised by all interested City, County, or State agencies and officials with regard to the public interest of health, safety, and welfare..
 - (2) Plans and specifications are sealed by a Florida registered architect or engineer, if required by the building official.
 - (B) *Permit Fees:* A reduction of the City's building permit and construction and other development-related fees is permitted as determined by the City Commission.
 - (C) *Open Space:* Archaeological and historical resources that are to be preserved may be utilized to satisfy required setbacks, buffer strips or open space up to the

maximum area required by development regulations. Conservation of such archaeological and historic resources shall qualify for any open space requirements mandated by development regulations.

- (D) *Density Calculations*: Acreage associated with archaeological and historical resources preserved within the boundaries of a project shall be included in calculating the project's permitted density.

Section XIX. Tax Exemptions for Historic Properties; Classification and Assessment of Historic Property Used for Commercial or Certain Nonprofit Purposes.

The City hereby elects to adopt the classification and assessment methods provided in Sections 193.503 and 196.1961 of the Florida Statutes, as amended. Accordingly, subject to the definitions, conditions, and procedures established by those Sections, the owners of designated archaeological and historic properties within the City qualifying under these Sections may apply so that they shall be assessed either based upon the property's actual use or to allow the property a tax exemption of up to 50 percent of its assessed value, whichever is greater, pursuant to Sections 4(d) and 3, Article VII, of the State Constitution. Any such classification shall terminate upon repeal of Sections 193.503 or 196.1961 of the Florida Statutes or the repeal or sunset of this provision.

Section XX. Transfer of Development Rights.

- (1) *Purpose*: In order to encourage private sector participation in the public policy of protecting, enhancing, and perpetuating properties designated for their aesthetic, archaeological, architectural, cultural, historical, and paleontological merit, the City has developed bonus provisions for the transfer of development rights as an incentive for historic preservation.
- (2) If a commercial or residential property located within the City is a designated individual site or is a contributing property within a designated district or zone (the "sending property"), whether it is designated by the City, County or State, or is listed on the National Register of Historic Places, the development rights of a bonus floor area equal to twice that of an existing historic structure or the total identified square footage of a protected archaeological site may be transferred to any property (the "receiving property") within a specific receiving area of the City as designated by the City Commission.
 - (A) The bonus floor area transferred from the sending property to the receiving property shall not exceed a floor area ratio (FAR) of one-fifth of that allowed for the receiving property at the time of the transfer.
 - (B) A restrictive covenant, conservation easement or other instrument satisfactory to the City Attorney shall be recorded in the chain of title of the sending property that specifies the amount of the bonus floor area transferred from the sending property, the remaining amount not transferred, and ensures the permanent maintenance of the exterior appearance of the historic property or preservation of the archaeological site consistent with this ordinance. Once used, the bonus floor

- area transferred shall not be used again and the development rights to use them by the sending property shall be considered permanently severed.
- (C) It is not necessary that the sending property and the receiving property have the same property owner.
 - (D) The transfer of development rights is subject to the approval of the City Commission.
- (3) If the transfer from the sending property is to a receiving property that is also a designated archaeological or historical property, the transfer of the bonus floor area shall be approved by the Board, which must consider any potential detrimental effect to the receiving property by the transfer and whether any existing restrictions on the receiving property prevent the transfer.
 - (4) The transfer of development rights to be used shall be subject to all of the requirements of the basic zoning district applicable to the receiving property unless specifically approved otherwise as provided by law.
 - (5) The transfer of development rights shall be valid for a period not to exceed two (2) years from the time of the City Commission's final approval of the transfer, unless otherwise provided by the City Commission at the time of the initial approval. A property owner may subsequently apply to the City Commission once for an extension of time not to exceed two (2) years from the date of expiration of the initial approval period. Regardless of the receipt of an initial approval period longer than two years for the use of the transfer of development rights, the total time allowed for the use of the transfer of development rights shall not exceed five (5) years.
 - (6) *Time Limitations:* The City Commission's approval of a transfer of development rights shall be valid so long as the approval of the transfer is permitted by law. The failure to act on the part of a property owner to exercise a transfer or to receive a transfer of development rights or to obtain and exercise an authorized building or construction permit within the time period provided by law shall automatically terminate such approval and the City shall be held harmless for any damages arising out of a party's failure to act.
 - (7) The County Property Appraiser shall be notified by the City in writing of the transfer of development rights so that the conditions limiting the future development of the sending property can be taken into consideration for the purposes of the assessment of taxes as provided by state statute.