

ORDINANCE NO. 2014 - 32

1 AN ORDINANCE OF THE BOARD OF COUNTY
2 COMMISSIONERS OF BROWARD COUNTY, FLORIDA,
3 PERTAINING TO HISTORIC PRESERVATION; REVISING
4 THE BROWARD COUNTY HISTORIC PRESERVATION
5 REGULATIONS TO QUALIFY AS A STATE OF FLORIDA
6 CERTIFIED LOCAL GOVERNMENT ("CLG") PROGRAM;
7 REPEALING ARTICLES VII AND XVI, "HISTORICAL
8 COMMISSION" AND "ARCHAEOLOGICAL CULTURAL
9 RESOURCE SITES," RESPECTIVELY, OF THE
10 BROWARD COUNTY CODE OF ORDINANCES ("CODE");
11 CREATING, DELETING, AND REVISING VARIOUS
12 SECTIONS OF ARTICLE XVII, "PRESERVATION OF
13 HISTORICAL CULTURAL RESOURCE SITES"; REVISING
14 SECTIONS 31½-104 AND 31½-105 OF ARTICLE VI OF
15 THE CODE, "HISTORIC PROPERTY"; AND PROVIDING
16 FOR SEVERABILITY, INCLUSION IN THE CODE, AND AN
17 EFFECTIVE DATE.

(Sponsored by the Board of County Commissioners)

12 BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
13 BROWARD COUNTY, FLORIDA:

14 Section 1. Article VII of the Broward County Code of Ordinances, "Historical
15 Commission," is hereby repealed in its entirety.

16 Section 2. Article XVI of the Broward County Code of Ordinances,
17 "Archaeological Cultural Resource Sites," is hereby repealed in its entirety.

18 Section 3. Section 5-530 of the Broward County Code of Ordinances is hereby
19 amended to read as follows:

20 **Sec. 5-530. Declaration of legislative intent and purpose.**

21 (a) It is hereby declared ~~a matter of public policy~~ that the protection,
22 enhancement, and perpetuation of cultural resources and properties and structures of
23 historical, archaeological, and architectural merit in the eCounty is constitute a public
24 policy of Broward County and is in the interest of the eCounty's future prosperity; and

1 the economic, educational, and general welfare of the residents of Broward County, and
2 of the public generally; ~~and it.~~ It is further declared that the preservation of lands
3 containing historical and archaeological sites during a development application process,
4 until completion of that process, constitutes a minimal development control and furthers
5 the health, safety, and welfare of Broward County, by preventing disturbance of
6 valuable community prehistoric and historical sites during the application process, and
7 by allowing governmental and private land planning activities to provide for appropriate
8 incorporation of historic resource sites, archaeological zones, and sites containing
9 archaeological materials into development plans. It is further declared that this public
10 policy is intended to:

- 11 (1) Effectuate and accomplish the protection, enhancement, and perpetuation
12 of buildings, structures, improvements, archaeological resources,
13 landscape features, and architectural resources of sites and districts which
14 represent distinctive elements of the eCounty's cultural, social, economic,
15 political, scientific, religious, prehistoric, and architectural history.
- 16 (2) Safeguard the eCounty's historical, cultural, archaeological, and
17 architectural heritage as embodied and reflected in such individual
18 structures, sites, and districts and to protect such structures, sites, and
19 districts in order to maintain physical evidence of the eCounty's heritage.
- 20 (3) Foster civic pride in the accomplishments of the past.
- 21 (4) Protect and enhance the eCounty's attraction to visitors and to support
22 and stimulate the economy thereby.

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underscored type are additions.

1 (5) Promote the use of individual structures, sites, and districts for the
2 education, pleasure, and welfare of the residents of and visitors to
3 Broward County.

4 (b) In order to implement and give effect to this public policy, the Broward
5 County Board of County Commissioners shall appoint a Historic Preservation Board
6 who shall have the authority to make recommendations on historic resource
7 designations; approve, approve with conditions, or deny certificates of appropriateness
8 and certificates to dig; and carry out any other duties assigned to it by the Broward
9 County Board of County Commissioners.

10 (c) ~~Pursuant to section 8.04 of the Broward County Charter, t~~This article shall
11 be effective countywide and shall be effective within a municipality to the extent a
12 municipality does not have an ordinance prevail within over a municipal ordinance in
13 ~~conflict. For purposes of this article, a municipal ordinance that preserves historical~~
14 ~~sites and structures and that prohibits ground disturbance of archaeological historic~~
15 ~~resources in the same manner as this article shall not be considered to be in conflict~~
16 ~~with this article because it imposes additional restrictions. The municipal ordinance~~
17 shall control the historical sites and structures, and archaeological sites, or both, within
18 the municipality, provided the municipality has adopted an ordinance protecting historic
19 resources or archaeological sites, and this County ordinance shall not be applicable
20 within the municipality. Nothing in this Article shall limit any municipality from placing
21 further restriction or additional requirements on any of the subjects covered by this
22 Article.

23 Section 4. Section 5-531 of the Broward County Code of Ordinances is hereby
24 amended to read as follows:

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1 **Sec. 5-531. Scope and exemptions.**

2 (a) Unless expressly exempted below, no building permits shall be issued for
3 new construction, demolition, alteration, rehabilitation, signage, or any other physical
4 modification of an ~~historical-cultural~~ resource site, as same is defined herein, without the
5 prior issuance of a certificate of appropriateness by the Broward County ~~Historical~~
6 ~~Commission, or by the local government having jurisdiction which has established a~~
7 ~~local historical commission~~ Historic Preservation Board, in accordance with the
8 procedures specified in this article.

9 (b) The following permits are exempt from the regulations of this article:

10 (1) All permits for plumbing, heating, air conditioning, elevators, fire alarms,
11 and fire extinguishing equipment, and all mechanical and electrical
12 equipment that do not involving ge exterior changes or construction visible
13 from the public right-of-way, or navigable waterway, or changes to an
14 ~~designated interior~~ not previously designated as a historic resource and
15 not visible from the public right-of-way or navigable water.

16 (2) Any permit necessary for compliance with a lawful order issued by the
17 local government having jurisdiction through its building and permitting or
18 code and zoning divisions, unsafe structures board, or fire marshal,
19 including, without limitation, any permit necessary for the immediate
20 preservation of public health or safety.

21 Section 5. Section 5-532 of the Broward County Code of Ordinances is hereby
22 repealed in its entirety and a new Section 5-532 is created to read as follows:

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1 **Sec. 5-532. Definitions.**

2 (a) Addition shall mean any new construction that adds mass to an existing
3 historic resource.

4 (b) Alteration shall mean any act or process that alters any of the following
5 aspects of a historic resource:

6 (1) the exterior architectural appearance;

7 (2) any interior or exterior feature that has been designated as a historic
8 resource;

9 (3) any interior structural feature that is visible from a public right-of-way or a
10 navigable waterway; or

11 (4) when located within a nonresidentially zoned designated historic district,
12 the introduction, placement, or replacement of accessories or other
13 personal property, including, but not limited to, furniture placed outdoors,
14 pushcarts, and mobile or nonmobile vending machines or trolley cars
15 placed on private property.

16 (c) Archaeological materials shall mean human skeletal materials or human-
17 manufactured objects, or natural objects altered by human activity, found on or
18 beneath the surface of the ground and shall include, but not be limited to, pottery,
19 basketry, bottles, weapons, weapon projectiles, tools, structural and building ruins,
20 graves, any earthen mounds, middens or landscape features of human manufacture,
21 or any portion or piece of any of the foregoing items. Unmarked human remains and
22 associated burial artifacts and materials that are seventy-five (75) years of age or more
23 are considered archaeological materials for the purpose of this article. Structures, and
24 nonfossilized and fossilized paleontological resources, or any portion or piece thereof,

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1 shall not be considered archaeological materials under this article, unless found within
2 an archaeological site, archaeological zone, or during an archaeological salvage
3 excavation. Except as specified in this paragraph, no item shall be treated as a historic
4 resource under this article unless such item is at least one hundred (100) years of age.

5 (d) *Archaeological salvage excavation* shall mean a process designed to
6 prevent activity causing adverse impact on cultural resources by systematic removal of
7 prehistoric or historical cultural remains, in order to acquire the fundamental information
8 necessary for understanding the site within its proper historic context. This process
9 requires an appropriate field survey, excavation, artifact analysis, and curation reports.

10 (e) *Archaeological site* shall mean a location that has yielded or is likely to
11 yield the presence of archaeological materials on or below the ground and information
12 indicating the past use of the site by humans. An archaeological site may be identified
13 using onsite investigations or site-predictive models pursuant to the criteria set forth in
14 Section 5-533 of this Code.

15 (f) *Archaeological zone* shall mean an area that has yielded or is likely to
16 yield largely subsurface information on the prehistory or history of the County based on
17 prehistoric or historic settlement and land use patterns within the County, as determined
18 in consultation with the Broward County Archaeologist and the State of Florida Division
19 of Historical Resources. These zones will tend to conform to certain natural
20 physiographic features that were the focal points for prehistoric and historic activities.
21 Archaeological zones shall be recorded on a Map of Broward County Archaeological
22 Zones to be maintained and amended as necessary by the Historic Preservation
23 Officer.

24 (g) *Board* shall mean the Broward County Board of County Commissioners.

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1 (h) *Building* shall mean a structure created to shelter any form of human
2 activity. This may refer to a house, barn, garage, church, hotel, or similar structure.
3 Building may also refer to a historically-related or architecturally-related complex.

4 (i) *Certificate of Appropriateness (COA)* shall mean a certificate issued by the
5 Historic Preservation Board indicating approval of plans for specified alteration,
6 rehabilitation, construction, reconstruction, removal, relocation, or demolition of a
7 historic resource.

8 (j) *Certificate to Dig (CTD)* shall mean a certificate indicating approval of
9 plans for specific digging projects that are anticipated to yield known or as yet unknown
10 archaeological or paleontological materials in an archaeological or paleontological zone
11 or site designated as a historic resource. This certificate shall be issued by staff of the
12 Historic Preservation Board, when required and approved pursuant to Section 5-536.5
13 of this Code.

14 (k) *Certified Local Government (CLG)* shall mean a local historic preservation
15 program which has been certified by the Florida Department of State, Division of
16 Historical Resources in accordance with the National Historic Preservation Act of 1966
17 (16 U.S.C. 470 et seq.).

18 (l) *Construction* shall mean the erection of an onsite improvement to a
19 designated site or to a building, parcel, or grounds located within a historic resource
20 site, whether the resource is presently improved or unimproved, or hereafter becomes
21 unimproved by demolition or as a result of destruction of an improvement located
22 thereon by fire, windstorm, or other casualty, or otherwise.

1 (m) *Contributing resource* shall mean a building, site, structure, or object that
2 adds to the historic, architectural, archaeological, or paleontological significance of a
3 historic district.

4 (n) *Demolition* shall mean any act that destroys in whole or in part a historic
5 resource.

6 (o) *Demolition by neglect* shall mean improper or inadequate maintenance of
7 a historic resource that results in its substantial deterioration and threatens the
8 continued preservation of the historic resource.

9 (p) *Exterior* shall mean all outside surfaces or elements of a building or
10 structure.

11 (q) *Florida Master Site File (FMSF)* shall mean an archive and database of all
12 known archaeological and historical sites and districts recorded within the State of
13 Florida, as maintained by the Florida Department of State, Division of Historical
14 Resources.

15 (r) *Historic district* shall mean an area designated by the Board, located
16 within defined geographic boundaries, which contains two (2) or more contributing
17 resources and which may contain noncontributing resources and vacant land within its
18 boundaries.

19 (s) *Historic Preservation Officer (HPO)* shall mean the staff person appointed
20 by the County Administrator, who is directly responsible for administering this article and
21 for carrying out the duties and responsibilities delegated by the State of Florida CLG
22 Program. Responsibilities and duties of the HPO, as provided in this article, shall
23 include those of the HPO or the HPO's authorized representative. The HPO shall meet
24 the professional qualifications standards of the guidelines and standards of the United

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1 States Secretary of the Interior as published in the Code of Federal Regulations, 36
2 C.F.R. Part 61.

3 (t) *Historic resource* shall mean a building, structure, object, site, or other real
4 or personal property, excluding living things, of historic, architectural, archaeological, or
5 paleontological value, including an individual resource, contributing resource, or
6 noncontributing resource, or vacant land within a historic district that is individually
7 designated by the Board as a historic resource. Any building, structure, object, site, or
8 other real or personal property previously designated as an Archaeological Cultural
9 Resource Site or Historical Cultural Resource Site under the Broward County Code of
10 Ordinances is hereby defined as a historic resource.

11 (u) *Historic survey* shall mean a comprehensive listing or inventory of
12 buildings, sites, and structures of any historical, cultural, archaeological,
13 paleontological, or architectural importance in Broward County, Florida.

14 (v) *Integrity* shall mean the authenticity of a resource's historic identity,
15 evidenced by the survival of physical characteristics that existed during the resource's
16 historic or prehistoric period.

17 (w) *Mass* shall mean the envelope or cubic footage of the structure, including,
18 but not limited to, all habitable space, garages, attics, storage areas, and porches.

19 (x) *National Register of Historic Places* shall mean the list of historic
20 properties significant in American history, architecture, archaeology, engineering, and
21 culture, maintained by the Secretary of the Interior, as established by the National
22 Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.).

23 (y) *New construction* shall mean any new building, structure, object, or
24 addition to a historic resource.

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1 (z) *Noncontributing resource* shall mean a resource within a historic district
2 that is not historically or architecturally compatible with contributing resources within the
3 district.

4 (aa) *Ordinary maintenance* shall mean minimal work conducted on a historic
5 resource which specifically stems deterioration and exactly replicates the existing
6 material of the resource in form and substance.

7 (bb) *Paleontological resource* shall mean any vertebrate fossils, including
8 bones, teeth, natural casts, molds, impressions, and other remains of prehistoric fauna,
9 preserved in or on the earth's crust, that are of paleontological interest and that provide
10 information about the history of life on earth, except that the term does not include:

11 (1) any materials associated with an archaeological resource, as defined in
12 Section 3(1) of the Archaeological Resources Protection Act of 1979,
13 16 U.S.C. 470bb(1); or

14 (2) any cultural item, as defined in Section 2 of the Native American Graves
15 Protection and Repatriation Act, 25 U.S.C. 3001.

16 (cc) *Paleontological site* shall mean a location that has yielded or is likely to
17 yield information important to the understanding and scientific study of paleontological
18 resources. A paleontological site is evidenced by the presence of paleontological
19 materials on or below the ground surface indicating past use of a location by humans.

20 (dd) *Paleontological zone* shall mean an area likely to yield largely subsurface
21 information on the prehistory and fossil history of the County based on prehistoric
22 environmental patterns within the County, as determined in consultation with the Florida
23 Museum of Natural History. Paleontological zones will tend to conform to certain

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1 geological features and deposits and shall be recorded on a Map of Broward County
2 Paleontological Zones to be maintained and amended as necessary by the HPO.

3 (ee) *Period of significance* shall mean the period of time from which a historic
4 resource's importance is derived.

5 (ff) *Relocation* shall mean the movement of a historic resource, including
6 movement on its own site. Relocation shall also include the introduction of a historic
7 resource or previously nondesignated resource onto the site of a historic resource.

8 (gg) *Scale of a building* shall mean the ratio of the mass of the building to the
9 total buildable area of the property, as defined by maximum setback, step-back, and
10 height requirements.

11 (hh) *Secretary of the Interior's Standards* shall mean the Secretary of the
12 Interior's Standards for the Treatment of Historic Properties with Guidelines for
13 Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings, and
14 Archaeological Documentation, codified at 36 C.F.R. Part 68, and the Archaeological
15 Program, codified at 36 C.F.R. Part 79, published by the United States Department of
16 the Interior, and those guidelines developed by the Secretary of the Interior to guide
17 work undertaken on historic and archaeological resources.

18 (ii) *Setting* shall mean the environment in which a historic resource is located,
19 including, but not limited to, the viewshed, water frontage, or streetscape.

20 (jj) *Streetscape* shall mean the appearance or view along the public
21 right-of-way adjacent to a historic resource.

22 (kk) *Structure* shall mean a man-made object built or constructed for a
23 functional use that is not intended to shelter human activity, such as a fence or a
24 windmill.

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1 (ll) Viewshed shall mean the views to and from a historic resource.

2 Section 6. Section 5-533 of the Broward County Code of Ordinances is hereby
3 repealed in its entirety and a new Section 5-533 is created to read as follows:

4 **Sec. 5-533. Criteria and procedures for designation of a historic resource.**

5 (a) The following criteria shall be used to determine eligibility for designation
6 of an individual historic resource or a historic district:

7 (1) Any site, building, structure, object, or district that is listed in the National
8 Register of Historic Places may be designated.

9 (2) A site, building, structure, object, or district that is not listed in the National
10 Register of Historic Places may be designated only if it conveys an overall
11 sense of past time and place by possessing at least three (3) of the
12 following attributes of integrity: location, design, setting, materials,
13 workmanship, and association, and is characterized by one (1) or more of
14 the following:

15 a. Events associated with the site, building, structure, object, or district
16 have made a significant contribution to the cultural, social, political,
17 economic, scientific, religious, prehistoric, paleontological, or
18 architectural history and have contributed to the pattern of history in
19 the community, Broward County, South Florida, the State of
20 Florida, or the nation; or

21 b. The site, building, structure, object, or district is associated with the
22 lives of persons significant in local, state, or national history; or

23 c. The site, building, structure, object, or district embodies the
24 distinctive characteristics of a type, period, or method of

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1 construction; represents the work of a master builder, architect, or
2 designer; possesses high artistic values; or represents a significant
3 and distinguishable entity, the components of which may lack
4 individual distinction; or

5 d. The site, building, structure, object, or district has yielded, or may
6 be likely to yield, information important in prehistory or history; or

7 e. The site, building, structure, object, or district has achieved
8 significance within the last fifty (50) years as a result of the
9 extraordinary importance of an event that occurred at the site on a
10 local, state, or national level; the fragility of the resource; the
11 community's strong associative attachment to the resource; or the
12 significance of a building's architecture or architect; or

13 f. The archaeological site is located within an archaeological zone,
14 the site has been previously recorded with the Florida Master Site
15 file, and the County has made a good-faith effort to obtain access
16 to the property to conduct a reconnaissance level archaeological
17 survey, but access to the property has been denied.

18 (3) Interior spaces shall not be designated unless the interiors have
19 exceptional architectural, artistic, or historic importance, and are
20 customarily open to the public.

21 (4) A resource must be at least fifty (50) years of age or, if less than fifty (50)
22 years old, must possess exceptional importance.

23 (b) The following procedures shall be used in determining eligibility of an
24 individual historic resource or a historic district:

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1 (1) A site, building, structure, object, or district may be nominated for
2 designation using a historic designation application form, available from
3 the HPO, and shall be completed by the applicant and returned to the
4 HPO.

5 (2) An owner of a nominated property, site, building, structure, object, or
6 district, the Board, a municipality, or the Historic Preservation Board, upon
7 its own motion, may make application to the Historic Preservation Board
8 for consideration of a property, site, building, structure, object, or district
9 as a historic resource.

10 (3) The boundaries of a historic resource or historic district shall be described
11 in a legal description in the historic designation application. The
12 boundaries of the historic designation site shall be established as follows:

13 a. For designation of an individual historic resource, the boundary
14 shall be the original site as it was associated with the nominated
15 historic resource during its period of significance. If a portion of the
16 original site containing the historic resource has been sold or
17 developed, that portion of the site that is currently associated with
18 the historic resource shall constitute the boundary.

19 b. For a historic district, the boundary shall be the geographic
20 perimeter of the grouping of sites and properties included in the
21 district.

22 (4) Upon receipt of a completed application form, including necessary
23 documentation, the HPO shall review the application for completeness
24 and accuracy. Once determined complete and accurate by the HPO, the

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1 nomination shall be placed on the agenda of the next available, regularly
2 scheduled meeting of the Historic Preservation Board. At that meeting,
3 the Historic Preservation Board will conduct a public hearing and make a
4 determination regarding designation or, if necessary, make the
5 determination whether to designate at a subsequent date.

6 (5) The designation of the site, building, structure, object, or district as a
7 historic resource shall not exceed the scope of the actual application for,
8 or the extent of notice of public hearing on, the site, building, structure,
9 object, or district nominated for designation.

10 (6) Notice of the Historic Preservation Board's public hearing to consider the
11 nomination shall be provided by the HPO by placing an advertisement in a
12 newspaper of general circulation at least fifteen (15) days prior to the
13 hearing pursuant to this section. Additionally, the HPO shall mail notice at
14 least fifteen (15) days in advance of the public hearing, to the owner of the
15 nominated property, or the owner's authorized agent, as indicated on the
16 Broward County tax roll, unless staff is provided evidence of a different
17 owner, and the local government within whose jurisdiction the nominated
18 site is located.

19 (7) The Historic Preservation Board shall act upon the nomination within
20 sixty-five (65) days after the date of the meeting at which the nomination is
21 first considered. In the event the Historic Preservation Board does not act
22 upon the nomination within the sixty-five (65) days, the nomination shall
23 be deemed to be denied without prejudice, so as to permit the applicant to
24 file a subsequent nomination. A written recommendation shall be

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1 forwarded to the Board for approval, approval with conditions, or denial of
2 the nomination, based upon the evidence presented at a public hearing
3 before the Board. Notice of the Board hearing to consider the nomination
4 shall be provided by the HPO by placing an advertisement in a newspaper
5 of general circulation at least fifteen (15) days prior to the hearing.
6 Additionally, the owner of the nominated property, or the owner's
7 authorized agent, as indicated on the Broward County tax roll, unless staff
8 is presented evidence of a different owner, and the local government
9 within which the nominated property is located, will be mailed notice by the
10 HPO at least fifteen (15) days in advance of the public hearing.

11 (8) If the property owner of an individual historic resource nomination
12 consents to designation, a simple majority vote of the Board shall be
13 required to designate a historic resource. If an individual historic resource
14 designation lacks owner consent, then a majority vote plus one (1) of the
15 Board shall be required.

16 (9) No permits for any demolition, alteration, construction, relocation, land
17 disturbance, or development activities shall be issued once a nomination
18 form is filed until the Board acts to approve or deny the nomination, or for
19 six (6) months after the nomination is filed, whichever shall first occur.

20 (10) Appeals of a decision of the Board regarding the designation or failure to
21 designate a nominated property as a historic resource shall be by
22 appropriate action pursuant to the Florida Rules of Civil Procedure.

23 Section 7. Section 5-534 of the Broward County Code of Ordinances is hereby
24 amended to read as follows:

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1 **Sec. 5-534. Historical Cultural Resource Sites designated designation.**

2 (a) A Historical Cultural Resource Sites shall be designated in accordance
3 with this article by ~~being adopted by a resolution of the Board of County Commissioners~~
4 ~~and described~~ describing the historic resource designated by folio number(s) and any
5 other information that further specifies the site resource so designated, ~~and shall be~~
6 ~~included in the Administrative Code of Broward County~~ and upon adoption shall be
7 recorded in the public records of Broward County.

8 (b) Board resolutions designating a historic resource shall be forwarded to the
9 Broward County Planning Council for review and consideration for designation on the
10 Broward County Land Use Plan Map Series as a Cultural Resource/Local Area of
11 Particular Concern.

12 Section 8. Section 5-535 of the Broward County Code of Ordinances is hereby
13 repealed in its entirety and a new Section 5-535 is created to read as follows:

14 **Sec. 5-535. Historic Preservation Board.**

15 (a) The Historic Preservation Board is hereby established to perform the
16 duties assigned herein, as well as any other duties assigned by the Board. The Historic
17 Preservation Board shall also review National Register nominations in accordance with
18 the National Historic Preservation Act of 1966. The actions of the Historic Preservation
19 Board shall be complementary to the responsibilities of the State Historic Preservation
20 Office.

21 (b) The Historic Preservation Board shall be comprised of nine (9) members,
22 each of whom shall be appointed by the Board. All members of the Historic
23 Preservation Board shall be residents of Broward County and shall possess
24 demonstrated knowledge, experience, and commitment to historic preservation. Each

1 County Commissioner shall nominate one (1) member to the Historic Preservation
2 Board. One (1) member of the Historic Preservation Board shall be a licensed architect
3 with demonstrable historic preservation experience. The remaining eight (8) members
4 shall be practicing or retired professionals from each of the following areas of
5 disciplines:

6 (1) Archaeology, anthropology, or cultural anthropology;

7 (2) Historic architecture, architectural history, or an allied or related
8 profession;

9 (3) History or folklore;

10 (4) Historic preservation;

11 (5) Planning and land use related to historic preservation;

12 (6) Conservation or curation;

13 (7) General or building contractor; and

14 (8) Professional engineering.

15 In the event no qualified individual has expressed interest in serving in a specific
16 category, a Commissioner may nominate an individual with demonstrated special
17 interest, experience, or knowledge of history, architecture, or related disciplines to
18 ensure a Historic Preservation Board comprised of subject matter professionals in the
19 field of historic preservation.

20 (c) With the exception of the initial members, the term of office of the Historic
21 Preservation Board members shall be two (2) years, and no member shall serve more
22 than two (2) consecutive two (2) year terms. The initial term of members shall be
23 staggered so that the end of the term of the initial members shall not end
24 simultaneously. Four of the initial nine (9) members shall serve for a one (1) year initial

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1 term and shall be permitted to serve an additional two (2) full two (2) year terms. The
2 Historic Preservation Board shall establish rules of procedures, including, but not limited
3 to, procedures for recording of minutes, for training opportunities for Historic
4 Preservation Board members, for election of officers, and for seeking assistance on
5 historic preservation matters requiring expertise not represented within its membership.
6 Any vacancies shall be filled only for the remainder of the original member's term.

7 (d) The Historic Preservation Board shall be subject to the requirements of
8 Section 1-233 of the Broward County Code of Ordinances.

9 (e) In addition to the duties described elsewhere in this article, the duties of
10 the Historic Preservation Board shall include, but not be limited to:

11 (1) Developing and updating any forms necessary for the implementation of
12 this article, including, but not limited to, historic designation, COA, and
13 CTD applications.

14 (2) Providing historical markers, plaques, and other recognition for individual
15 historic resources, districts, archaeological sites, archaeological zones,
16 and paleontological zones.

17 (3) Recommending zoning and building code amendments to the proper
18 authorities to assist in promoting historic preservation.

19 (4) Developing and applying design guidelines.

20 (5) Initiating, reviewing, and updating historic site surveys in the County.

21 (6) Reviewing National Register nominations and providing comments to the
22 appropriate entities.

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1 (7) Reviewing and making recommendations to County staff regarding grants
2 and financial incentives that assist in promoting historic preservation within
3 the County that are available to property owners and to the County.

4 (8) Promoting the awareness of historic preservation and its community
5 benefits.

6 (9) Preparing and maintaining records of the Historic Preservation Board's
7 actions and decisions.

8 (10) Fulfilling all obligations and requirements associated with the CLG
9 Program.

10 (11) Promoting and assisting in the creation, program, and work of local
11 historical, archaeological, and genealogical societies.

12 (f) The Board shall provide staff for the operational support of the Historic
13 Preservation Board to undertake the requirements for certification as a CLG and to
14 carry out the duties and responsibilities delegated to the CLG.

15 (g) The County and the Historic Preservation Board shall maintain the historic
16 preservation ordinance and practices in compliance with the CLG requirements.

17 Section 9. Section 5-536 of the Broward County Code of Ordinances is
18 hereby amended to read as follows:

19 **Sec. 5-536. Certificate of ~~a~~Appropriateness (COA).**

20 (a) *Certificate of Appropriateness (COA) ~~R~~required:*

21 (1) No person shall undertake any of the following actions affecting a
22 ~~H~~historical ~~C~~cultural ~~R~~resource Site without first obtaining a ~~certificate of~~
23 appropriateness COA from the local ~~historical~~ ~~commission~~ Historic
24 Preservation Board:

Coding: Words in ~~struck-through~~ type are deletions from existing text. Words in
 underscored type are additions.

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- a. Alteration of the exterior architectural appearance or features of a building or a structure or designated interior portion of a building, or structure, object, or site;
- b. New construction;
- c. Relocation; or
- d. Demolition;
- e. Land disturbance; or
- f. Development activities.

(2) Review of new construction and alterations to designated buildings and structures shall be limited to the exterior architectural features visible to the public, except for ~~designated~~ interior portions designated a historic resource.

(3) A ~~certificate of appropriateness~~ COA shall be a prerequisite and in addition to any other permits required by law. The issuance of a ~~certificate of appropriateness~~ COA by the ~~local historical commission~~ Historic Preservation Board shall not relieve the property owner of the duty to comply with other state and local laws and regulations.

(4) Ordinary repairs and maintenance to a building or structure that are otherwise permitted by law may be undertaken without a ~~certificate of appropriateness~~ COA, provided the work on a ~~H~~historic Cultural Resource Site does not alter the exterior architectural appearance or features of the ~~building or structure~~ exterior or designated interior, or alter elements significant to its architectural, archaeological, or historic integrity.

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1 (5) If a COA for relocation is approved, the historic resource shall remain
2 designated during and after its relocation.

3 (6) Except as set forth in this article, no building permit shall be issued by any
4 building official of the municipal government having jurisdiction or by
5 Broward County which affects any historic resource without a COA.

6 (b) *Application Procedures for a Certificate of Appropriateness* COA:

7 (1) The ~~applicant~~ property owner or agent shall complete and file an
8 application with the ~~local historical commission or the designated division~~
9 ~~of the local government having jurisdiction, if such local government has~~
10 ~~enacted an historic preservation ordinance in accordance with~~
11 ~~section 5-542 of this article, HPO on a form provided by the local historical~~
12 ~~commission or the designated division of the local government having~~
13 ~~jurisdiction~~ Historic Preservation Board.

14 a. Applications shall be accompanied by drawings, plans, or
15 specifications of sufficient detail to show the proposed exterior or
16 designated interior alterations, additions, changes, or new
17 construction as are reasonably required for decisions to be made
18 by the ~~local historical commission~~ Historic Preservation Board and
19 the Broward County ~~EPD~~, or by the ~~local government having~~
20 ~~jurisdiction~~ Environmental Protection and Growth Management
21 Department.

22 b. Such drawings, plans, or specifications shall include designated
23 interior and exterior elevations, floor plans, architectural design of
24 buildings and structures, including proposed materials, textures,

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1 and colors, ~~including~~ and all improvements such as walls, walks,
2 terraces, plantings, accessory buildings, signs, lights, and other
3 appurtenant elements.

4 (c) ~~Public Meetings for Certificates of Appropriateness~~ COAs:

5 (1) The ~~Historical Commission~~ Historic Preservation Board shall hold a
6 quasi-judicial public hearing on each application for a ~~certificate of~~
7 appropriateness COA within forty-five (45) days after receipt of a
8 completed application. The HPO shall determine when an application is
9 complete. No hearing shall be scheduled, however, sooner than fifteen
10 (15) days after mailing the applicant ~~receives~~ notice of the hearing. Within
11 sixty-five (65) days after the hearing, as same may be continued, with
12 good cause shown and as set forth in the record, for a period of time not
13 to exceed ninety (90) days, the Historic Preservation Board shall issue an
14 order based on the criteria outlined in this section. If the Historic
15 Preservation Board fails to issue an order on an application within the
16 specified time period, the application shall be deemed denied. The
17 ~~Historical Commission~~ Historic Preservation Board shall approve, approve
18 with conditions, or disapprove each application based on the criteria
19 contained in this article. In the event an applicant has alleged that strict
20 enforcement of the provision of this article would result in the deprivation
21 of all reasonable economically beneficial use of such property, the Historic
22 Preservation Board shall hear evidence pertaining to the allegation
23 simultaneously with the quasi-judicial hearing for the issuance of the COA.
24

1 (2) ~~The Historical Commission shall respond to the application for certificate~~
2 ~~of appropriateness within forty-five (45) days after the public hearing. The~~
3 ~~written order of the Historical Commission shall include findings of fact~~
4 ~~based on the criteria outlined in this section. If the Historical Commission~~
5 ~~fails to make a decision on an application within the specified time period,~~
6 ~~the application shall be deemed approved.~~

7 (3) Appeals of the denial or the approval with conditions of a COA, where the
8 applicant has alleged that the enforcement of the provisions of the article
9 would result in the deprivation of all reasonable economically beneficial
10 use of such property, shall be heard by the Board. The hearing shall be
11 noticed and heard in accordance with the provisions of this article
12 regarding other quasi-judicial hearings before the Board. All other
13 Appeals of a decision of the Historical Commission Historic Preservation
14 Board with regard to the issuance of a certificate of appropriateness COA
15 shall be by writ of certiorari to the circuit court pursuant to the Florida
16 Rules of Civil Procedure, within thirty (30) days of after the rendition of the
17 Historical Commission's Historic Preservation Board's order.

18 (d) ~~General Criteria and Guidelines for Granting Certificates of~~
19 ~~Appropriateness COAs:~~ In approving or denying applications for ~~certificates of~~
20 ~~appropriateness a COA~~ for alterations, new construction, relocation, or demolition, land
21 disturbance, or development activity, the local historical commission Historic
22 Preservation Board shall use consider the following general guidelines criteria:

23 (1) ~~The affect of Whether~~ the proposed modification to has a material effect
24 on the Historical Cultural Resource Site.

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1 (2) ~~The extent to which~~ Whether the proposed modification will affect the
2 historic and architectural significance, architectural style, design,
3 arrangements, texture, materials, and color of the ~~H~~historic Cultural
4 R~~resource Site will be affected.~~

5 (3) Whether denial of a ~~certificate of appropriateness~~ COA would deprive the
6 property owner of all reasonable economically beneficial use of such
7 property.

8 (4) Whether the plans may be reasonably carried out by the applicants.

9 (5) Whether the plans comply with *The Secretary of the Interior's Standards*
10 ~~*for Rehabilitation and Guidelines for Rehabilitating Historic Buildings*~~
11 ~~*(Revised 1983), and The Secretary of the Interior's Standards for Historic*~~
12 ~~*Preservation Projects with Guidelines for Applying the Standards (1985).*~~

13 (6) Whether the proposed work will have a negative impact on the historic
14 resource upon which such activity is to be done.

15 (7) Whether the proposed work will have a negative impact on other historic
16 resources on the site or on other historic resources within its viewshed.

17 (e) ~~Additional Guidelines R~~elating to A~~lterations:~~ In approving or denying
18 applications for ~~certificates of appropriateness~~ a COA for alterations, in addition to the
19 general criteria listed in ~~s~~Subsection (d) above, the local historical commission Historic
20 Preservation Board shall determine:

21 (1) ~~The extent to which~~ Whether the distinguishing original qualities or
22 character of a building, structure, or site and its surrounding environment
23 will be retained. Whenever reasonably possible, historic material or
24 distinctive exterior architectural features will not be removed or altered.

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 underscored type are additions.

1 (2) Whether the proposed alterations change, destroy, or adversely affect any
2 exterior architectural feature upon which ~~said~~ the alterations are to be
3 performed.

4 (3) Whether the alterations will protect, enhance, or perpetuate the structure,
5 building, or site.

6 (4) If replacement of an architectural feature is necessary, whether the new
7 material ~~will be~~ is compatible with the material being replaced in
8 composition, design, color, and texture.

9 (5) Whether distinctive stylistic features or examples of craftsmanship which
10 characterize a building, structure, or site will be preserved.

11 (6) Whether every reasonable effort is being made to protect and preserve
12 archaeological resources ~~which are adjacent to, or~~ on or adjacent to the
13 site, or that may be affected by, any alterations, rehabilitation, restoration,
14 or reconstruction project.

15 (f) ~~Additional Guidelines Relating to New Construction:~~ In approving or
16 denying applications for ~~certificates of appropriateness~~ a COA for new construction, the
17 ~~local historical commission~~ Historic Preservation Board shall ~~use the following~~
18 ~~guidelines~~ consider the following criteria, in addition to ~~the~~ other general criteria listed in
19 Subsection (d) above, in order to determine ~~that~~ whether:

20 (1) The height of the proposed building is visually compatible with adjacent or
21 surrounding buildings or structures.

22 (2) The width of the proposed building is visually compatible with the height of
23 the building, as well as with adjoining or surrounding buildings or
24 structures.

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1 (3) The open space area between the proposed building, and adjoining or
2 surrounding buildings or structures, is visually compatible.

3 (4) The materials, textures, and colors of the facade of the proposed building
4 or structure are compatible with the predominant materials used in
5 adjacent or surrounding buildings or structures to which ~~it is~~ they are
6 visually related.

7 (5) Appurtenances of a building or structure, such as walls, wrought iron
8 fences, landscaping, or building facades ~~shall be~~ are visually compatible
9 with the building or structure to which ~~it is~~ they are visually related.

10 (6) Whether additions to historic resources are sited as inconspicuously as
11 reasonably possible and, with the exception of waterfront properties,
12 towards the rear. All additions shall be designed to complement the
13 historic resource in terms of scale, shape, and materials, while at the
14 same time being readable as differentiated from and compatible with the
15 old work.

16 (g) ~~Additional Rrequirements Rrelating to Rrequest Tto Rrelocate a~~
17 ~~Hhistorical Cultural Rresource Site:~~ In approving or denying applications for
18 ~~certificates of appropriateness a COA~~ for relocation of a ~~Hhistorical Cultural Rresource~~
19 ~~Site, the local historical commission~~ Historic Preservation Board, in addition to the
20 general criteria listed in sSubsection (d) above, shall consider the following:

21 (1) ~~The affect of Whether~~ the relocation ~~with regard to~~ will affect the
22 contribution the building or structure makes to its present setting.

23 (2) Whether there are definite plans for the site to be vacated.
24

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1 (3) Whether the building or structure can be moved without significant
2 damage to its physical integrity.

3 (4) Whether the building or structure is compatible with the building or
4 structure ~~to~~ on its proposed site or adjacent properties.

5 (5) Whether it has been demonstrated that no viable preservation alternatives
6 exist at its present location.

7 (6) Whether all necessary measures will be taken to protect and preserve
8 archaeological and paleontological resources affected by, or adjacent to, a
9 historic resource.

10 A CTD shall also be required for relocation of a historic resource if the resource
11 is one hundred (100) years old or older.

12 (h) ~~Additional Requirements Relating to Requests for Demolition:~~
13 ~~Demolition of a Historical Cultural Resource Site~~ may occur pursuant to an order of a
14 government agency, a court of appropriate jurisdiction, or, if granted, pursuant to an
15 application by the owner or owner's agent for a ~~certificate of appropriateness~~ COA for
16 demolition from the ~~local historical commission~~ Historic Preservation Board.

17 (1) In approving or denying applications for a COA for demolition of a historic
18 resource, in addition to the general criteria listed above, the following
19 criteria shall be considered:

20 a. Whether the application concerns a noncontributing resource;

21 b. Whether the historic resource no longer retains its significance due
22 to permitted alterations or extensive damage caused by fire, flood,
23 or storm;

24 c. Whether the demolition is of major benefit to a historic district;

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- 1 d. Whether the historic or architectural importance of the historic
2 resource is significant;
- 3 e. Whether the historic resource is one of the last remaining examples
4 of its kind in the neighborhood, the County, or the region;
- 5 f. Whether there are definite plans for reuse of the property if the
6 proposed demolition is carried out, and the effect of those plans on
7 the character of the surrounding properties;
- 8 g. Whether reasonable measures can be taken to save the historic
9 resource; and
- 10 h. Whether failure to issue the COA for demolition will deprive the
11 owner of all reasonably economically beneficial use of the owner's
12 property.

13 (4) (2) In addition to the items listed in Subsection (b)(1) above, ¶the applicant
14 shall provide the following information to the ~~local historical commission~~
15 Historic Preservation Board:

- 16 a. Name of Owner of record.
- 17 b. Site plan showing all buildings and structures located on the
18 property.
- 19 c. Recent photographs of the building or structure proposed for
20 demolition.
- 21 d. Reasons for requesting demolition and method of demolition to be
22 used.
- 23 e. Proposed future use of the site and of the materials from the
24 demolished building or structure.

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 underscoring type are additions.

1 ~~(2)~~ (3) Within forty five ~~(45)~~ days of receipt of a completed application, the local
2 historical commission shall conduct a hearing on the application. The
3 applicant, and any and all In addition to the notice requirements set forth
4 in Subsection (c), notice shall be provided by the HPO, by U.S. mail,
5 postage prepaid, to record owners of land lying within three hundred
6 seventy-five (375) feet of the historical-cultural resource site, shall be
7 given a minimum of mailed at least fifteen (15) days' notice of such
8 meeting before the quasi-judicial hearing.

9 ~~(3)~~ (4) In considering an application for a COA for demolition of a historic
10 resource, ~~the local historical commission~~ Historic Preservation Board, in
11 addition to the criteria set forth in subsection (d) above, shall consider any
12 evidence, reports, or testimony from interested parties and will as to
13 whether the criteria have been met. Unless postponed, as set forth below,
14 the Historic Preservation Board shall render a decision either to deny,
15 approve with conditions, or approve the application for demolition within
16 forty-five (45) days of after the meeting public hearing. If the Historic
17 Preservation Board fails to issue an order on an application within the
18 specified time period, the application shall be deemed approved. For
19 decisions of the Historic Preservation Board for approval and approval
20 with conditions, ~~the local historical commission may request~~ Historic
21 Preservation Board may require a postponement of the request for
22 demolition for a period not to exceed six (6) months in order that the local
23 historical commission Historic Preservation Board may ascertain what the
24 local government having jurisdiction may do to preserve the building or

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1 structure, and shall make a recommendation to that effect to such local
2 government.

3 (5) If an application for demolition of a COA for a historic resource is filed, the
4 approval of the COA for demolition shall be a prerequisite to the issuance
5 of any other County permits for a historic resource. However, the
6 issuance of a COA for a demolition shall not occur until all other approvals
7 required for the redevelopment of the subject site by Broward County, and
8 any other jurisdiction, are issued. If no approvals are required for the
9 redevelopment, the issuance of a COA for a demolition shall not occur
10 until the preliminary permit is issued by Broward County, and any other
11 jurisdiction, for any ground disturbance for the redevelopment of the
12 subject site.

13 ~~(4) (i) Application for economic hardship exception: Upon final notification of a~~
14 ~~decision to deny an application for demolition of a structure(s), the applicant may within~~
15 ~~thirty (30) days apply for an economic hardship exception on the basis that the denial of~~
16 ~~the permit will result in the loss of all reasonable and beneficial use of or return from the~~
17 ~~property.~~

18 ~~An application for economic hardship exception shall contain~~ Where, by reason
19 of particular site conditions and restraints, or because of unusual circumstances
20 applicable solely to a particular historic resource or site upon which a resource is
21 located, strict enforcement of the provisions of this article would result in the deprivation
22 of all reasonable economically beneficial use of the historic resource or site upon which
23 the resource is located, the Historic Preservation Board shall vary or modify adherence
24 to this article; provided always that its decision shall ensure harmony with the general

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1 purposes of this article and will not adversely affect Broward County. In any instance
2 where there is a claim of undue economic hardship, the applicant shall submit, by
3 affidavit, to the Historic Preservation Board at least fifteen (15) days prior to the quasi-
4 judicial public hearing, the following information:

5 a. (1) Amount paid for the property, date of purchase, the description of the
6 entire property purchased, and party from whom the property was
7 purchased, including a description of the relationship, whether business or
8 familial, if any, between the owner and the person from whom the property
9 was purchased.

10 b. (2) Assessed value of the land and improvements thereon according to the
11 most recent assessment of the Broward County Property Appraiser.

12 c. (3) For depreciable properties, a *pro forma* financial statement, indicating the
13 profits and losses of the property for the current and preceding two (2)
14 years, prepared by an accountant or broker of record.

15 d. (4) All appraisals obtained by the applicant in connection with the purchase or
16 financing of the property, or obtained during the applicant's ownership of
17 the property.

18 e. (5) Bona fide offers of the property for sale or rent, price asked, and offers
19 received, if any.

20 f. (6) Any consideration by the applicant as to profitable, adaptive reuses for the
21 property.

22 g. (7) The Historic Preservation Board may further require that an applicant
23 furnish such additional information as relevant to its determination of
24 undue economic hardship. The owner shall permit access to the subject

1 property for the purpose of inspections and appraisals required by the
2 Historic Preservation Board or the HPO.

3 ~~A public hearing shall be scheduled to address the application for an~~
4 ~~economic hardship exception within thirty (30) days from the receipt of the~~
5 ~~completed application. Notice of the date, time, place and subject matter~~
6 ~~of the hearing shall be provided, in writing, at least fifteen (15) days prior~~
7 ~~to the public hearing, to the applicant and to all persons who provided~~
8 ~~testimony at the public hearing on the original demolition application. In~~
9 ~~the event an applicant has alleged that strict enforcement of the provisions~~
10 ~~of this article would result in the deprivation of all reasonable economically~~
11 ~~beneficial use to the applicant, evidence pertaining to this allegation shall~~
12 ~~be provided before or at the quasi-judicial hearing for the issuance of the~~
13 ~~COA as set forth in this article. All interested persons shall be allowed to~~
14 ~~participate in the hearing.~~

15 ~~A determination shall be made based on the application for hardship~~
16 ~~exception, within ninety (90) days after the application has been received.~~

17 ~~Note: All documents presented to the historical commission are subject to~~
18 ~~the Public Records Law, Chapter 119, F.S.~~

19 ~~(i)~~ (j) All alterations or repairs shall be performed pursuant to the terms and
20 conditions of the ~~certificate of appropriateness~~ COA.

21 ~~(i)~~ The local historical commission may require that a marker be placed by
22 the owner on the property providing the historic background of the historical cultural
23 resource site.

1 (k) ~~No building permit shall be issued by any building official of the~~
2 ~~government having jurisdiction which affects any Historical Cultural Resource Site~~
3 ~~without a certificate of appropriateness.~~ It shall be the responsibility of the appropriate
4 building official and the HPO to inspect from time to time any work being performed in
5 their respective jurisdictions to ensure compliance with a COA. In the event work is not
6 being performed in accordance with the COA, the building official shall issue a stop
7 work order until it is demonstrated that work will commence consistent with the COA or,
8 if necessary, that an amended COA has been obtained. No additional work shall be
9 undertaken as long as the stop work order remains in effect.

10 Section 10. Section 5-536.5 of the Broward County Code of Ordinances is
11 hereby created to read as follows:

12 **Sec. 5-536.5. Certificate to dig (CTD), protection, and preservation.**

13 (a) Certificate to dig (CTD) required:

14 (1) Within a designated archaeological or paleontological site or zone, or
15 historic resource site or property containing archaeological or
16 paleontological resources or artifacts, no person shall undertake any of
17 the following actions affecting the site or property, without first obtaining a
18 CTD from the HPO for:

- 19 a. Any new construction, filling, digging, removal of trees, or other
20 activity that may alter or reveal archaeological material or
21 paleontological material; or
22 b. Any alterations, relocations, new construction, or demolitions when
23 ground disturbance is likely to occur within an archaeological or
24 paleontological site or zone.

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1 (2) A CTD shall be a prerequisite and in addition to any other permits required
2 by law. The issuance of a CTD by the HPO shall not relieve the property
3 owner of the duty to comply with other state and local laws and
4 regulations.

5 (b) *General criteria and guidelines for granting a CTD:* In approving or
6 denying applications for a CTD, the HPO shall consider the following:

7 (1) Whether the proposed work will have an effect on a known or anticipated
8 historic resource;

9 (2) Whether the extent to which the historic, archaeological, paleontological
10 significance of the historic resource will be affected by the proposed work
11 is within the Secretary of the Interior's Standards;

12 (3) Whether denial of a CTD would deprive the property owner of all
13 reasonable economically beneficial use of such property;

14 (4) Whether the plans may be reasonably carried out by the applicant;

15 (5) Whether the plans comply with the Secretary of the Interior's Standards;

16 (6) Whether the proposed work will have a negative impact on the historic
17 resource upon which such activity is to be done; and

18 (7) Whether the proposed work will have a negative impact on other historic
19 resources on the site or on other historic resources within its viewshed.

20 (c) *Application procedures for a CTD.*

21 (1) The owner or agent shall complete and file an application with the HPO.

22 a. Applications shall be accompanied by drawings, plans, or
23 specifications of sufficient detail to show the proposed alterations,
24 additions, changes, or new construction and locations of ground

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1 disturbance activities as are reasonably required for decisions to be
2 made by the HPO.

3 b. Within twenty (20) days after the date that the application has been
4 deemed complete, the HPO shall approve the application for a
5 CTD, approve the application with conditions, or deny the
6 application. In the event that no decision has been rendered within
7 twenty (20) days, the application shall be deemed to be approved.

8 c. The CTD may be made subject to specified conditions, including,
9 but not limited to, those regarding site excavation.

10 d. The determination of the HPO shall be mailed to the owner or agent
11 by registered mail within seven (7) days after the decision of the
12 HPO.

13 e. The owner or agent shall have the opportunity to appear before the
14 Historic Preservation Board to challenge the HPO decision or any
15 conditions attached to the CTD by requesting a meeting of the
16 Historic Preservation Board within ten (10) days after the receipt of
17 notification of the decision on the CTD application is made to
18 applicant either through mailing with proof of delivery or otherwise
19 in writing with proof of delivery.

20 1. The request shall be placed on the agenda of the next
21 available, regularly scheduled meeting of the Historic
22 Preservation Board to review the original HPO decision. The
23 Historic Preservation Board may uphold or modify the HPO
24 decision after considering de novo, the application.

1 statement, and evidence presented by the owner or agent,
2 and statements and evidence presented by the HPO.

3 2. The decision of the Historic Preservation Board shall be
4 mailed to the owner within fourteen (14) days after the date
5 of the meeting.

6 3. An approved CTD shall contain an effective date, not to
7 exceed sixty (60) days after the decision, at which time the
8 proposed activity may begin, unless the Historic
9 Preservation Board initiates the nomination process for the
10 site in question as a historic resource or historic district. In
11 such a case, all the rules and regulations pertaining to the
12 nomination process for a historic resource shall apply.

13 (d) All work performed pursuant to the issuance of a CTD shall conform to the
14 requirements of such certificate. It shall be the responsibility of the appropriate building
15 official and the HPO to inspect from time to time any work being performed in their
16 respective jurisdictions to ensure compliance with a CTD. In the event work is not being
17 performed in accordance with the CTD, the building official shall issue a stop work order
18 until it is demonstrated that work will commence consistent with the CTD or, if
19 necessary, that an amended CTD has been obtained. No additional work shall be
20 undertaken as long as the stop work order remains in effect.

21 (e) To assist in implementing this section, the County shall adopt a map of
22 known archaeological and paleontological sites and conservation areas. Said map shall
23 be kept and maintained in the offices of the HPO and shall be available for public
24 inspection.

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1 (f) At least annually, the HPO shall review the map and the Florida Master
2 Site file for possible map amendments.

3 (g) In the event that any archaeological materials are uncovered during
4 development activities, such development activities in the immediate vicinity of the
5 discovery site shall be discontinued, and certain actions shall be taken by the property
6 owner.

7 (1) The property owner shall:

8 a. Notify the HPO of the discovery.

9 b. Allow a Phase 1 level survey of the property completed by a
10 professional archaeologist meeting the qualifications and standards
11 established by 36 C.F.R. Part 61. In the event the property owner
12 does not consent to pay for a Phase I level survey, the County
13 Archaeologist shall complete the required survey.

14 c. Submit the survey to the HPO and the local government having
15 jurisdiction, for review and evaluation, and to the Florida Master
16 Site File section of the Florida Division of Historical Resources. If
17 the County Archaeologist prepares the Phase 1 level survey, the
18 survey shall be submitted to the local government having
19 jurisdiction and to the Florida Master Site File section of the Florida
20 Division of Historical Resources for review and evaluation.

21 (2) If the professional archaeologist or the County Archaeologist determines
22 that the site is not significant, and said determination is verified by the
23 HPO and the County Archaeologist, or in the case of the County
24 Archaeologist, the Florida Master Site File section of the Florida Division

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1 of Historical Resources, then development activities may resume
2 immediately. If the HPO fails to respond within fourteen (14) calendar
3 days after receipt of said survey, the determination of the professional
4 archaeologist that the site is not significant shall be presumed to be valid.

5 (3) If the site is determined to be significant, within thirty (30) days after the
6 determination of significance of the Phase 1 level survey, the Historic
7 Preservation Board shall initiate preservation of the site by any of the
8 following:

- 9 a. Designate the site as a historic resource;
10 b. Recommend approval of incorporation of the site into a site
11 development plan;
12 c. Initiate public acquisition of the site;
13 d. Offer transfer of development rights to the owner or developer, if
14 available;
15 e. Recommend offering tax incentives to the owner or developer
16 pursuant to Section 193.505, Florida Statutes; or
17 f. Allow development activities to proceed under the supervision of a
18 professional archaeologist, at a level of supervision to be
19 determined by the archaeologist, to ensure protection of the site.

20 (4) If preservation of the site is not feasible, development activities in the
21 immediate area of the discovery shall be delayed for a period of time not
22 to exceed three (3) months after the date of receipt of the Phase 1 level
23 survey. During this three (3) month period, representatives of the State
24 Division of Historical Resources, the Historic Preservation Board, the

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1 HPO, or the agents and employees of Broward County shall seek the right
2 of access to the immediate area to survey. A professional archaeologist
3 retained by the owner or developer shall conduct an archaeological
4 salvage excavation of the area within which the discovery was made;
5 provided, however, that development shall resume upon either the
6 completion of such archaeological salvage excavation or the expiration of
7 the three (3) month period, whichever first occurs. If necessary, the three
8 (3) month time period may be extended for an additional three (3) month
9 time period to allow for completion of the survey and archaeological
10 salvage excavation. If access to the site is denied, the CTD shall be
11 denied.

12 Section 11. Section 5-537 of the Broward County Code of Ordinances is hereby
13 amended to read as follows:

14 **Sec. 5-537. Maintenance of historical ~~cultural~~ resource sites.**

15 (a) Every owner of an historical ~~cultural~~ resource site shall properly maintain
16 and keep in good repair and shall not permit demolition by neglect to occur:

- 17 (1) All of the exterior portions of such buildings or structures;
- 18 (2) All interior portions which, if not maintained, may cause the building or
19 structure to deteriorate or to become damaged or otherwise to fall into a
20 state of disrepair; and
- 21 (3) If the site is ~~also designated as an archaeological cultural resource site~~
22 contains archaeological materials, the owner shall be required to maintain
23 the property in such a manner so as not to adversely affect the integrity of
24 the archaeological zone or historic ~~cultural~~ resource site; or

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1 (4) In the alternative to (1) - (3) above, seek a COA based upon a deprivation
2 of reasonable economically beneficial use of such property.

3 (b) The ~~local historical commission~~ Historic Preservation Board may refer
4 violations of this section to the appropriate division of the local government having
5 jurisdiction for enforcement proceedings relating to any building or structure designated
6 as an ~~historical-cultural~~ resource site in order to preserve such building or structure in
7 accordance with the purpose and intention of this article.

8 (c) The requirements of this section shall be in addition to any and all
9 requirements of the local government having jurisdiction and the ~~South~~ Florida Building
10 Code that require buildings or structures to be maintained in good repair. It is the intent
11 of this section to preserve, from either deliberate or inadvertent neglect, the exterior
12 features of historic resources and the interior portions thereof when maintenance is
13 necessary to prevent deterioration and decay of the historic resource. All such historic
14 resources shall be preserved against such decay and deterioration and be maintained
15 free from structural defects through correction of any of the following deficiencies:

16 (1) Facades which may fall and injure the subject or adjoining structure or
17 building, or members of the public.

18 (2) Deteriorated or inadequate foundation, defective or deteriorated flooring or
19 floor supports, deteriorated walls or other vertical structural supports.

20 (3) Members of ceilings, roofs, ceiling and roof supports, or other horizontal
21 members which sag, split, or buckle due to defective material or
22 deterioration.

23 (4) Deteriorated or ineffective waterproofing of exterior walls, roofs,
24 foundations, or floors, including broken windows or doors.

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1 (5) Any fault or defect in the structure or building which renders it structurally
2 unsafe, insufficiently protected from weathering, or not properly watertight.

3 (d) A property owner who believes that the application of this section creates
4 an undue economic hardship may request relief pursuant to Section 5-536 of this Code.

5 Section 12. Section 5-538 of the Broward County Code of Ordinances is hereby
6 repealed in its entirety.

7 Section 13. Section 5-539 of the Broward County Code of Ordinances is hereby
8 amended to read as follows:

9 **Sec. 5-539. Public nuisance.**

10 The Board of ~~County Commissioners~~ hereby finds that the unauthorized
11 alteration, ~~or demolition, or demolition by neglect,~~ of structures or sites designated as
12 ~~historical-cultural resources sites~~ is a violation of this article, constituting a public
13 nuisance; and, as such, the ~~County~~ Attorney, upon approval of the Board of ~~County~~
14 ~~Commissioners~~, or the municipal attorney, upon approval by the governing body of the
15 local government having jurisdiction, may seek an injunction, in addition to any other
16 legal remedies available.

17 Section 14. Section 5-542 of the Broward County Code of Ordinances is hereby
18 repealed in its entirety.

19 Section 15. Section 5-543 of the Broward County Code of Ordinances is hereby
20 created to read as follows:

21 **Sec. 5-543. Trust fund account and other nonmonetary gifts.**

22 (a) There is hereby created a Broward County Historic Preservation Trust
23 Fund Account ("trust fund account") for accepting and disbursing gifts, grants, and
24 awards made to the County for the benefit of historic preservation.

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1 **(b)** The trust fund account is to be self-perpetuating from year to year unless
2 abolished by the Board.

3 **(c)** The trust fund account shall be for the use of Broward County such that
4 the funds therein will inure to the use and benefit of historic preservation from time to
5 time and from year to year.

6 **(d)** The gifts, grants, and awards received from public and private donors
7 shall be deposited in the trust fund account herein created, and shall at all times be kept
8 separate and apart from the general funds of the County such that they will inure to the
9 use and benefit of historic preservation from time to time and from year to year.

10 **(e)** Funds not expended at the close of any fiscal year shall be carried forward
11 into the next year.

12 **(f)** Gifts, grants, and awards to the said trust fund account shall be received
13 by the County, and delivered to the Broward County Director of Finance and
14 Administrative Services, who shall deposit them pursuant to the Broward County
15 Administrative Code. The gifts, grants, and awards shall be expended by the Broward
16 County Director of Finance and Administrative Services only upon receipt of a resolution
17 duly adopted by the Board.

18 **(g)** Any gifts, grants, or awards received subject to a condition shall be
19 expended strictly in accordance with such condition.

20 **(h)** The books and records of the said trust fund account shall at all times be
21 open to public inspection; and shall be subject to County and state audit as required by
22 law. An annual report on the use of the trust fund account should be submitted to the
23 Board within ninety (90) days after the end of any fiscal year.

24

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 underscored type are additions.

1 (i) All nonmonetary gifts, grants, and awards of money intended to benefit
2 historic preservation may be accepted on behalf of Broward County by the administrator
3 of the Historic Preservation Board, or designee, or other person(s) as may be
4 designated by resolution of the Board, subject to Board approval requirements in
5 Section 18.63(a) of the Broward County Administrative Code.

6 (j) Title to all property accepted hereunder shall repose and be vested in
7 Broward County, in trust, for the use and benefit of Broward County, its successors, and
8 assigns.

9 (k) No real property or any appurtenances or fixtures thereto shall be
10 accepted unless authorized by the Board.

11 Section 16. Section 31½-104 of the Broward County Code of Ordinances is
12 hereby amended to read as follows:

13 **Sec. 31½-104. Designation of type and location of historic property qualified for**
14 **exemption.**

15 (a) *Type—General.* Property is qualified for an exemption under this article if:

16 (1) At the time the exemption is granted, the property:

17 a. Is individually listed in the National Register of Historic Places
18 pursuant to the National Historic Preservation Act of 1966, as
19 amended; or

20 b. Is a contributing property to a national register-listed district; or

21 c. Is designated as a historic ~~property~~ resource, or as a contributing
22 ~~property~~ resource to a historic district, under the terms of Broward
23 County Historic Preservation Ordinance No. ~~93-13~~ [see, sSection
24 5-530 of the Broward County Code of Ordinances, et seq.]; and

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1 . . .

2 Section 17. Section 31½-105 of the Broward County Code of Ordinances is
3 hereby amended to read as follows:

4 **Sec. 31½-105. Designation of a local historic preservation office.**

5 (a) For those properties ~~which~~ that are located within a municipality ~~which~~ that
6 has ~~adopted~~ enacted an ordinance pursuant to the authority of § Section 196.1997, F.S.
7 Florida Statutes, and § Section 196.1998, F.S. Florida Statutes, and has designated a
8 local historic preservation office which has been approved and certified by the
9 Department of State, the County hereby designates such approved and certified local
10 historic preservation office as the local historic preservation office to review the
11 applications for exemption.

12 (b) ~~For~~ Prior to such time as the County historic preservation program has
13 been certified as a certified local government by the Florida Department of State,
14 Division of Historical Resources, in accordance with the National Historic Preservation
15 Act of 1966 (16 U.S.C. 470 et seq.), for those properties located within the
16 unincorporated areas of the ~~e~~County or within a municipality which either has not
17 ~~adopted~~ enacted an ordinance pursuant to the provisions of § Section 196.1997, F.S.
18 Florida Statutes, and § Section 196.1998, F.S. Florida Statutes, or has not designated
19 a certified local historic preservation office for the review of the tax exemption
20 applications, the ~~e~~County hereby designates the Division of Historical Resources of the
21 Department of State ("Division") to review the applications for tax exemption. At such
22 time as the County historic preservation program has been certified as a certified local
23 government by the Florida Department of State, Division of Historical Resources, in
24 accordance with the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.),

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1 the County Historic Preservation Board shall review tax exemption applications for
2 those properties located within the unincorporated areas of the County or within a
3 municipality which either has not enacted an ordinance pursuant to the provisions of
4 Section 196.1997, Florida Statutes, and Section 196.1998, Florida Statutes, or has not
5 designated a certified local preservation office for the review of tax exemption
6 applications.

7 (c) The Broward County ~~Historical Commission~~ Historic Preservation Board is
8 hereby designated as the coordinating office for application and covenant submittals,
9 and for receipt, and processing for ~~County Commission Board~~ Board review of
10 recommendations made by the ~~Division~~ or the local historic preservation office,
11 whichever is applicable, ~~and.~~ The Historic Preservation Board shall, in addition, perform
12 any and all administrative functions which may be deemed necessary to accomplish the
13 purposes herein set forth.

14 Section 18. SEVERABILITY.

15 If any portion of this Ordinance is determined by any Court to be invalid, the
16 invalid portion shall be stricken, and such striking shall not affect the validity of the
17 remainder of this Ordinance. If any Court determines that this Ordinance, or any portion
18 hereof, cannot be legally applied to any individual(s), group(s), entity(ies), property(ies),
19 or circumstance(s), such determination shall not affect the applicability hereof to any
20 other individual, group, entity, property, or circumstance.

21 Section 19. INCLUSION IN CODE.

22 It is the intention of the Board of County Commissioners that the provisions of
23 this Ordinance shall become and be made a part of the Broward County Code; and that
24 the sections of this Ordinance may be renumbered or relettered and the word

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1 "ordinance" may be changed to "section," "article," or such other appropriate word or
2 phrase in order to accomplish such intentions.

3 Section 20. EFFECTIVE DATE.

4 This Ordinance shall become effective as provided by law.

5
6 ENACTED September 23, 2014

7 FILED WITH THE DEPARTMENT OF STATE September 24, 2014

8 EFFECTIVE September 24, 2014

9
10 By/s/ Nancy Rubin 09/24/14
11 Nancy Rubin (date)
12 Assistant County Attorney
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