

ARTICLE 9

ARCHAEOLOGICAL AND HISTORIC PRESERVATION

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ARTICLE 9

ARCHAEOLOGICAL AND HISTORIC PRESERVATION

CHAPTER A Archaeological Resources Protection

Section 1 General

A. Purpose and Intent

It is hereby declared that the protection, enhancement and examination of significant archaeological resources is in the interest of the health, safety and welfare of the people of PBC. It is acknowledged that within PBC there exist sites which are of significant archaeological value as prehistoric, historic and cultural resources. A map identifying known archaeological sites, potential archaeological sites and archaeological conservation areas has been prepared by a qualified archaeologist and is adopted as part of this Article. **[Ord. 2005 – 002]**

1. Establish a procedure for review of development proposals on lands which have been identified as containing archaeological resources and archaeological conservation areas; **[Ord. 2005 – 002]**
2. Establish a method to review the potential archaeological and paleontological value of previously unidentified sites after the discovery of prehistoric and historical artifacts, skeletal or fossilized human remains, or non-human vertebrate fossils during development; **[Ord. 2005 – 002]**
3. Establish a mechanism to protect, when appropriate, resources of significant archaeological value identified pursuant to this Article that are deemed important by a qualified archaeologist to the prehistory or history of PBC, the County, the State or Nation; and,
4. Facilitate protection and documentation of resources of significant archaeological value without substantially delaying development. **[Ord. 2005 – 002]**

B. Applicability

This Article is applicable in the unincorporated area of PBC and regarding PBC owned property in municipalities unless otherwise regulated by municipal archaeological protection regulations and shall apply to:

1. All parcels of land which are identified as archaeological sites on the map entitled "Map of Known Archaeological Sites" and "Archaeological Conservation Areas"; **[Ord. 2005 – 002]**
2. A parcel on which previously unidentified artifacts, archaeological human remains, archaeological sites or features, or vertebrate fossils of significant archaeological and paleontological value is found during site development or during any other activity which may disturb an archeological site; and, **[Ord. 2005 – 002]**
3. All applications for Type III Excavation, pursuant to Art. 4.D, Excavation. **[Ord. 2005-002]**

Section 2 Development Subject to Archaeological Review

A. Development Subject to Archaeological Review

Development shall be subject to this Article as follows:

1. Parcels on Identified Sites

Parcels on the Map of Known Archaeological Sites and Archaeological Conservation Areas and proposals for Type III Excavation. Owners of parcels located on the Map of Known Archaeological Sites and Archaeological Conservation Areas or owners of parcels requesting approval for Type III Excavation must receive a Certificate to Dig prior to issuance of a development order. **[Ord. 2005 – 002]**

2. Parcels with Previously Unidentified Sites

Previously unidentified archaeological sites discovered during development. When one or more artifacts archaeological human remains, or vertebrate fossils are found on a parcel during development or during other activity disturbing the site, all development or disruptive activity directly over the find shall cease. Before any further development or disruptive activity continues, the following procedure shall apply: **[Ord. 2005 – 002]**

- a. The area directly over the find shall be staked by the property owner or agent of the property owner, contractor or subcontractor, or other party discovering the potential find;
- b. Within one working day of discovering the potential find, the Department and, if applicable, the property owner shall be notified;

- c. Within three days, the County Archaeologist shall inspect and evaluate the site for the purpose of determining whether artifacts or human skeletal or vertebrate fossils are located on the parcel. If the qualified archaeologist determines a significant archaeological resource is on or likely to be on the parcel, the Director of PZB shall issue an order suspending construction and define the area where the order suspending construction applies, based upon the archaeologist's assessment. Such order does not have the effect of a stop work order and shall not stop construction activity not directly impacting the defined potential archaeological or paleontological site; **[Ord. 2005 – 002]**
- d. The County Archaeologist shall evaluate the significance of the archaeological find and send a written Archaeological Evaluation Report to the property owner and Executive Director of the PZB postmarked within seven working days from issuance of the suspension order;
- e. In the Archaeological Evaluation Report, the County Archaeologist shall require an application for a Certificate to Dig be prepared if the archaeologist determines the site contains artifacts of significant archaeological value. If the County Archaeologist determines that there is no reasonable possibility that artifacts of significant archaeological value are contained on the site, the archaeologist shall make such a finding to the Department in the Archaeological Evaluation Report and PZB shall immediately lift the suspension order;
- f. In order to encourage individuals to bring potential significant archaeological discoveries to PBC's attention, private citizens engaged in disruptive activity which does not require a development order or permit and uncover a potential artifact, fossil, or remains, may request a waiver of application fees and shall not be subject to the timeframes required in this subsection. **[Ord. 2005 – 002]**

3. Sites Containing Human Skeletal Remains

If human skeletal remains are found, then F.S. §872.05, (1989), as amended from time to time, controls.

Section 3 Procedures

A. Certificate to Dig

1. Application

Owner of parcels required by Art. 9.A.1, General, and Art. 9.A.2, Development Subject to Archaeological Review, Parcels on the Map of Known Archaeological Sites, Archaeological Conservation Areas and proposals for Type III Excavation, and Previously Unknown Archaeological Sites discovered during development, to make application for a Certificate to Dig to the PZB for review shall make such application prior to the issuance of a development order. The application for the Certificate to Dig shall be made on a form available from the PZB. Only one Certificate to Dig shall be required to develop a site unless additional resources not addressed in the initial Certificate to Dig are found during site development. The Department shall determine whether the Application is a standard or special Certificate to Dig. A Special Certificate to Dig will be required for any application that will potentially alter or destroy more than ten percent of any known or previously recorded archeological site. All special Certificates to Dig will be forwarded by the Department to the Palm Beach County Historic Resources Review Board (HRRB) for review. All Standard Certificates to Dig will be reviewed by the Department staff and the County Archaeologist. **[Ord. 2005 – 002]**

2. Certificate to Dig Report Requirements

A report prepared by a qualified archaeologist shall be prepared with the application of a certificate and/or as requirement of the Certificate to Dig. The report shall at minimum contain a documented search of the Florida Master Site File (FMSF), a brief history of the area, an archaeological survey and field inspection performed in a professionally acceptable manner, an assessment of the archaeological significance of the site, and a proposed plan for archaeological management, which in some instances, may include recommendations for monitoring of proposed developmental activities by a qualified archaeologist. All reports submitted to the PZB on properties determined to be of archaeological significance shall include the preparation of a FMSF form, which shall be forwarded by the PZB to the Division of Historical Resources of the Florida Department of State. **[Ord. 2005 – 002]**

3. Standards for Issuance of a Certificate to Dig

Within three working days of receiving an application, the Department shall make a determination of the completeness of the application and whether it shall be processed as a Special or Standard Certificate to Dig. A Special Certificate to Dig will be required if the application is for a previously recorded site where more than ten percent of the known or potential site surface or volume will be adversely affected by the proposed development or improvements. A Standard Certificate to Dig will

be required if the application is for a previously recorded site where less than ten percent of the known or potential site surface or volume will be altered or destroyed by the proposed development. A Standard Certificate to Dig will be required for any application within an archaeological conservation area that is not the location of a previously recorded site. If the application is determined to be incomplete, the Department shall request additional information by certified mail. When the application is complete, if the Certificate to Dig is determined by the Department to be a Special Certificate to Dig the Department shall forward the application to the HRRB. The HRRB shall hold a public hearing within 30 days of the date of receipt of the application by the HRRB. The Department shall prepare its evaluation of the application and notify the applicant of its findings at least ten10 working days prior to the public hearing. Evaluation of the application by the Department and the HRRB shall be based upon guidelines in this Section, recommendations included in the archaeologist's report, and the recommendation of the County Archaeologist, if required. If the Department determines that the application is a Standard Certificate to Dig, then a Certificate to Dig will be issued to the applicant within 30 days of the date of receipt of the application by the Department. The HRRB's or Department's evaluation shall do one of the following: **[Ord. 2005 – 002]**

- a. In the Archaeological Evaluation Report, the County Archaeologist shall require an application for a Certificate to Dig be prepared if the archeologist determines the site contains artifacts or cultural remains of significant archaeological value. If the County Archaeologist determines that there is no reasonable possibility that artifacts of significant archaeological value are contained on the site, the County Archaeologist shall make such a finding to the Department in the Archaeological Evaluation Report and the Department shall immediately lift the suspension order. **[Ord. 2005 – 002]**
- b. If the property is determined to contain or potentially include a site of significant archaeological value, the HRRB or the Department shall issue a Certificate to Dig with conditions that are deemed necessary to protect or mitigate any part of the site determined to be of significance, including conditions regarding development design. In order to protect archaeological resources of significant value, the HRRB or the Department may require the applicant to do one or more of the following as part of receiving the Certificate to Dig: **[Ord. 2005 – 002]**
 - 1) Preserve part or all of the archaeological site within open space of the development;
 - 2) Redesign the development to accommodate preservation of all or a portion of the archaeological site. **[Ord. 2005 – 002]**
 - 3) The property owner may voluntarily fund or seek funding for excavation of the resource, if agreed to by PBC.
- c. The Department shall charge a fee covering the direct and indirect costs associated with reviewing an Application for a Certificate to Dig, issuing the certificate and monitoring compliance with the certificate. Fees for the issuance of a Certificate to Dig shall be added to the Department Fee Schedule by resolution approved by the BCC. **[Ord. 2005 – 002]**

4. Map of Known Archaeological Sites

A Map of Known Archaeological Sites and Archaeological Conservation Areas shall be adopted by the BCC. The above referenced map may be amended by resolution or ordinance adopted by the BCC pursuant to F.S. § 125.66 after considering a recommendation of the HRRB. The map shall be amended upon determination by PBC that additional sites of significant archaeological value have been discovered or in some instances, destroyed. At a minimum, the map and the FMSF Maters Site Files shall be reviewed annually by Department Staff and/or the County Archaeologist for possible map amendment. **[Ord. 2005 – 002]**

5. Appeals

Within 30 days of a written decision by the HRRB regarding an application for a Certificate to Dig, an aggrieved party may appeal the decision by filing a written notice of appeal, and pay a filing fee, established by the BCC, with the Clerk of the BCC. A copy of the notice of appeal shall be filed with the Executive Director of Planning, Zoning and Building Department PZB. The notice of appeal shall state the decision which is being appealed, the grounds for the appeal, and a brief summary of the relief which is sought. Within 45 days of the filing of the appeal or the first BCC meeting which is scheduled, whichever is later in time, the BCC shall conduct a public hearing at which time they may affirm, modify or reverse the decision of the HRRB or the Department. The applicant shall be notified by certified mail, return receipt requested, of the date, time, and place of such hearing. At this hearing, the party shall set forth the alleged inconsistencies or non-conformities with procedures or criteria set forth in this Code; however no new materials or evidence shall be presented to or considered by the BCC. The BCC shall vote to approve, modify or overrule the decision of the HRRB

or the Department. The decision of the BCC shall be in writing and a copy of the decision shall be forwarded to the appealing party. An applicant may appeal a final decision of the BCC within 30 days of the rendition of the decision by filing a petition for Writ of Certiorari in Circuit Court of the Fifteenth Judicial Circuit in and for Palm Beach County, Florida. [Ord. 2005 – 002]

6. Procedure for Addressing Violations, Hearing and Penalties

Upon detection by PBC that a property owner, agent of property owner, contractor or subcontractor has violated this Section, PBC shall notify the violator(s) and the property owner, if applicable, that a hearing has been set before the Code Enforcement Special Master. The notice, hearing and fines shall occur pursuant to Art. 10.B, Enforcement by Code Enforcement Special Masters. Further, if the Code Enforcement Board finds that a willful violation of this Article has occurred, PBC shall fine the violator a fine of up to \$500.00 per day or impose imprisonment in the PBC jail not to exceed 60 days or by both fine and imprisonment as provided in F.S. § 125.69, In addition to the sanctions contained above, PBC may take any other appropriate legal action, including, but not limited to, requests for temporary and/or permanent injunctions to enforce the provisions of this Section. It is the purpose of this Section to provide additional cumulative remedies.

Section 4 Definitions

See Art. 1.I, Definitions and Acronyms

CHAPTER B Historic Preservation Procedures

Section 1 General

The purpose and intent of this Article is to promote the health, safety and welfare of existing and future residents of PBC by protecting, enhancing and examining the historic resources of PBC. It is recognized that there are within unincorporated PBC and on PBC owned property in municipalities historic sites worthy of preservation and concentrations of historic buildings worthy of designation as historic districts. This Article provides mechanisms to promote historic preservation in PBC by the designation of historic sites and districts, and the regulation of construction and demolition of historic sites and within historic districts.

Section 2 Historic Sites

A. Register of Historic Places

1. If the BCC approves the nomination of a property for designation as a historic site or group of properties for designation as a historic district, said site or district shall be listed on the PBC Register of Historic Places and recorded in the official records of PBC. The PBC Register of Historic Places shall be administered by the BCC.
2. The BCC shall issue an official Certificate of Historic Significance to the owner of properties listed individually on the PBC Register of Historic Places or judged as contributing to the character of a historic district listed on the PBC Register of Historic Places. The County Administrator, or his/her appointee, is authorized to issue and place official signs denoting the geographic boundaries of each historic district listed on the PBC Register of Historic Places.

B. Criteria for Designation of Historic Sites and Districts

1. To qualify as a designated historic site or historic district, individual properties, structures, sites or buildings, or groups of properties, structures, sites or buildings, the proposed site or district shall meet one or more of the following criteria:
 - a. is associated in a significant way with the life or activities of a major person important in PBC, the State or National history, (i.e., the homestead of a local founding family); or
 - b. is the site of a historic event with significant effect upon PBC, the State or Nation; or
 - c. is associated in a significant way with a major historic event whether cultural, economic, military, or political; or
 - d. exemplifies the historic, political, cultural, or economic trends of the community in history; or
 - e. is associated in a significant way with a past or continuing institution which has contributed to the life of PBC;
 - f. portrays the environment in an era of history characterized by one or more distinctive architectural styles; or
 - g. embodies those distinguishing characteristics of an architectural style, period or method of construction; or

- h. is a historic or outstanding work of a prominent architect, designer, landscape architect, or builder; or
 - i. contains elements of design, detail, material or craftsmanship of outstanding quality or which represented, in its time, a significant innovation or adaptation to the South Florida environment.
2. A building, structure, site, or district will be deemed to have historic significance if, in addition to, or in the place of the previously mentioned criteria, the building, structure, site, or district meets the historic development standards as defined by and listed in the regulations of and criteria for the National Register of Historic Places, as prepared by the U.S. Department of the Interior under the Historic Preservation Act of 1966, as amended.
 3. Properties not generally considered eligible for designation include cemeteries, birthplaces or graves of historic figures, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, buildings or sites primarily commemorative in nature, reconstructed historic buildings, and properties that have achieved significance less than 50 years prior to the date the property is proposed for designation. However, such properties will qualify if they are integral parts of districts that do meet the previously described criteria or if they fall within one or more of the following categories.
 - a. A religious property deriving primary significance from architectural or artistic distinction of historic importance.
 - b. A building or structure removed from its location but which is primarily significant for architectural value, or is the surviving structure most importantly associated with an historic event or person.
 - c. A birthplace or grave of a historic 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 nature if design, age, tradition or symbolic value have invested it with its own historic significance.
 - f. A building, structure, site or district achieving significance less than 50 years from the date it is proposed for designation if it is of exceptional historic importance.

Section 3 Procedures

A. Application for Historic Site or District Designation

1. Applications for historic site or district status may only be initiated by the BCC, the HRRB or the property owner of an individual site. A neighborhood or community association may initiate an application for historic district status. Application for historic district or historic site status for public property may also be initiated by any resident of PBC.
2. Upon receipt of an application for historic or district site status, the Department shall conduct a preliminary evaluation of the application to determine whether or not it has sufficient information to process the application. The Department shall make the determination that an application is sufficient within ten working days of receipt of an application. If the application is not sufficient to process, the Department shall specify what additional information is necessary.
3. In the event the application as submitted is sufficient, the Department shall prepare a Designation Report for consideration at the next schedule HRRB meeting which shall contain the following information:
 - a. Proposed legal boundaries of the historic building, archaeological site, structure, or district; and,
 - b. Any proposed waiver of development regulations per Art. 9.B.4.B, Waiver of the Code Provisions.
 - c. Any conditions beyond the standards contained in the Code or conditions based on the standards of Art. 9.B.4.A, Development Standards For Historic Districts and Sites.
 - d. An analysis of historic significance and character of the nominated property; and,
 - e. An analysis of public historic interiors for those buildings and structures with interior features of exceptional architectural, aesthetic, artistic or historic significance of those buildings which have public access.

B. Public Hearings Required for Historic Site or District Designation

1. After the Department prepares its Designation report, the HRRB shall conduct a public hearing to evaluate and receive comments regarding the application.
2. The Department shall transmit, by certified mail, a copy of the designation report and a notice of public hearing to the property owner(s) of record as of the date of nomination. This notice shall serve as notification of the intent of the HRRB to consider designation and must be mailed at least 30 calendar days prior to the public hearing. In addition, all property owners within a 300 foot radius of

the nominated site or district shall be sent courtesy notice of the public hearing. However, failure to receive such courtesy notice shall not invalidate the hearing. Notice shall also be provided by publishing a copy thereof in a newspaper of general circulation in PBC at least ten calendar days prior to the date of the hearing. All interested parties shall be given an opportunity to be heard at the public hearing.

3. After a public hearing, the HRRB shall vote on the designation within 30 calendar days at a public meeting.
4. The BCC shall hold a public hearing at the next available meeting to consider the recommendation of the HRRB regarding the designation of historic sites and districts.
5. At the conclusion of the public hearing the BCC shall consider the application, all relevant support materials, the Designation Report, the recommendations of the HRRB and the standards contained in Art. 9.B.4.A, Development Standards For Historic Districts and Sites, thereby adopting a resolution enacting or denying the historic district or site designation. The resolution designating a historic site shall be approved or denied by not less than a majority of the quorum present unless an affected property owner objects to the designation of a historic site, in which case a majority of the total membership of the BCC is required to approve the designation. The BCC shall take no action upon a proposed district designation if a majority of property owners in the proposed district or the owners of a majority of the land area in the proposed district object in writing filed with the BCC before the hearing. The identity of the property owners shall be determined by PBC property tax roll. The resolution designating the historic site or historic district shall be recorded in the public records of PBC, Florida. The designation shall be noted on the Official Zoning Atlas by placing the designation H on the appropriate atlas page and indicating the boundaries of the historic district or site on the Zoning Atlas.
6. Any agency with authority to issue demolition permits shall be notified of all historic site or district designations. No later than 18 months after the first property or district is designated pursuant to this Code, PBC shall amend the Plan to include an inventory of historic district boundaries and historically significant structures designated pursuant to this ordinance. Subsequent to the initial inclusion of the historic inventory in the Plan, the inventory shall be updated consistent with provisions for evaluation and appraisal of the Plan as provided in F.S. § 163.3191, and submitted to the Florida Department of State for inclusion into the FMSF.

C. Review Guidelines for Certificate of Appropriateness

1. The HRRB shall utilize the most recent U.S. Secretary of the Interior's Standards for Rehabilitation as the standards by which applications for Certificate of Appropriateness are to be evaluated.
2. Applications for Certificates of Appropriateness must be made on forms approved and provided by the HRRB. Applications must be accompanied by appropriate site plans, scaled drawings, architectural drawings, photographs, sketches, descriptions, renderings, surveys, documents or any other pertinent information the HRRB may require to understand the applicant's planned alteration, construction, reconstruction, relocation, restoration, renovation, or demolition.
3. The application shall be submitted to PZB for review by the HRRB with a non-refundable application fee that is established by the BCC from time to time to defray the actual costs of processing the application.
4. An applicant may request a pre-application conference with the HRRB or appropriate PBC staff members to obtain information and guidance regarding the application process. The HRRB may designate subcommittees of at least one member to hold these conferences with potential applicants. The purpose of the pre-application conference will be to discuss and clarify preservation objectives and HRRB regulations and guidelines and any other questions which may arise during the Certificate of Appropriateness process. If at least two HRRB members are present, these conferences shall be public meetings subject to appropriate public meetings laws and notice requirements. However, in no case will any statement or representation made prior to official HRRB review of an application bind the HRRB, the BCC or any PBC departments regarding for the certification process.
5. If or when the application is determined sufficient, the Executive Director of PZB shall place the application on the agenda of the next available meeting of the HRRB. The HRRB shall receive an application at least 30 days prior to the public hearing. If no meeting of the HRRB is scheduled within 60 days of the date an application is determined sufficient, a special meeting shall be scheduled by the chairperson.
6. If it is determined that the application is not sufficient, written notice shall be delivered to the applicant specifying the deficiencies. The Executive Director of PZB shall take no further action on the application until the deficiencies are remedied. If the applicant fails to correct the deficiencies within 20 working days, the application shall be considered withdrawn.

7. The HRRB shall act upon the application within 60 days of the determination of an application sufficiency. Nothing herein will prohibit a continuation of a hearing on an application which the applicant requests or to which the applicant consents.
8. The HRRB may advise the applicant and make recommendations in regard to the appropriateness of the application. The HRRB may delay final action until its next regularly scheduled meeting, or, if the HRRB so chooses and the applicant agrees, until a special meeting to be held within 14 calendar days of the meeting at which the application was first considered. In no case will the HRRB delay taking action by approving, denying, or deferring any application more than 30 calendar days after such application is formally brought before the HRRB.
9. The HRRB may approve, modify or deny an application for a Certificate of Appropriateness. For purposes of granting a Certificate of Appropriateness, the HRRB shall have access to the designated site. If the HRRB approves the application, a Certificate of Appropriateness shall be issued. The issuance of a Certificate of Appropriateness shall not relieve the applicant from obtaining other development permits, orders and approvals required by PBC. A building permit or other development permit, order or approval shall be invalid if it is obtained without the Certificate of Appropriateness required for the work. Construction for which a Certificate of Appropriateness is issued shall commence within 18 months from the date of issuance, and said certificate shall expire if 25 percent of the approved improvements have not been completed within 24 months from the date of issuance. The HRRB may not approve extensions for Certificates of Appropriateness. If the HRRB denies the application, a Certificate of Appropriateness shall not be issued. The HRRB shall state its reasons for denial in writing and present these written reasons to the applicant within ten calendar days of the HRRB's denial.
10. Within 30 days of a written decision by the HRRB regarding an application for a Certificate of Appropriateness, an aggrieved party may appeal the decision by filing a written notice of appeal and pay a filing fee, established by the BCC, with the Clerk of the BCC. A copy of the notice of appeal shall be filed with the Executive Director of PZB. The notice of appeal shall state the decision which is being appealed, the grounds for the appeal, and a brief summary of the relief which is sought. Within 45 days of the filing of the appeal or the first BCC meeting which is scheduled, whichever is later in time, the BCC shall conduct a public hearing at which time they may affirm, modify or reverse the decision of the Department. The applicant shall be notified by certified mail, return receipt requested, of the date, time, and place of such hearing. At this hearing, the appealing party shall set forth the alleged inconsistencies or non-conformities with procedures or criteria set forth in this Code; however, no new material or evidence shall be presented to or considered by the BCC. The BCC shall vote to approve, modify or overrule the decision of the HRRB. The decision of the BCC shall be in writing and a copy of the decision shall be forwarded to the appealing party. An applicant may appeal a final decision of the BCC within 30 days of the rendition of the decision by filing a petition for writ of certiorari in Circuit Court of the Fifteenth Judicial Circuit in and for PBC, Florida.

Section 4 Regulations Affecting Historic Sites

A. Development Standards For Historic Districts and Sites

1. For the purpose of this Ordinance, exterior architectural features shall include those characteristics as defined in this Article.
2. A historic building, structure, appurtenance, site or district shall only be moved, reconstructed, altered or maintained in accordance with this ordinance in a manner that will preserve the historic and architectural character of the historic building, structure, appurtenance, site or district.
3. In considering proposals for alterations to the exterior of historic buildings and structures and in applying development and preservation standards, the documented, original design of the building may be considered, among other factors.
4. A historic site, building, structure, archaeological site, improvement, or appurtenance either within a historic district or individually designated, shall only be altered, restored, preserved, repaired, relocated, demolished, or otherwise changed in accordance with the Secretary of the Interior's Standards for Rehabilitation, as same may be amended from time to time.
5. Relocation of historic buildings and structures to other sites shall not take place unless it is shown that their preservation on their existing or original sites is inconsistent with the purposes of this Ordinance or would cause undue economic hardship to the property owner. Relocation of any structures shall not affect the designation of an underlying archaeological site.

6. Demolition of historic sites, or buildings, structures, improvements and appurtenances within historic districts shall be regulated by the HRRB in the manner described in Art. 9.B.4.D, Demolition of Designated Historic Sites and Within Historic Districts, of this Code.
7. The construction of new buildings or structures, or the relocation, alteration, reconstruction, or major repair or maintenance of a non-contributing building or structure within a designated historic district shall meet the same compatibility standards as any material change in the exterior appearance of an existing contributing building. Any material change in the exterior appearance of any existing non-contributing building, structure or appurtenance in a designated historic district shall be generally compatible with the form, proportion, mass, configuration, building material, texture, color and location of historic buildings, structures, or sites adjoining or reasonably proximate to the contributing building, structure or site.
8. All improvements to buildings, structures and appurtenances within a designated historic district shall be visually compatible. Visual compatibility shall be defined in terms of the following criteria:
 - a. **Height**
The height of proposed buildings or modifications should be visually compatible in comparison or relation to the height of existing structures and buildings.
 - b. **Front Facade Proportion**
The front facade of each building or structure should be visually compatible with and in direct relationship to the width of the building and to the height of the front elevation of other adjacent or adjoining buildings within a historic district.
 - c. **Proportion of Openings - Windows and Doors**
The openings of any building within a historic district should be visually compatible with the openings exemplified by the prevailing historic architectural styles within the district. The relationship of the width of windows and doors to the height of windows and doors among buildings within the district should be visually compatible.
 - d. **Rhythm of Solids to Voids - Front Facades**
The relationship of solids to voids in the front facade of a building or structure should be visually compatible with the front facades of historic buildings or structures within the district.
 - e. **Rhythm of Buildings on Streets**
The relationship of building(s) to open space between it or them and adjoining building(s) should be visually compatible with the relationship between historic sites, buildings or structures within a historic district.
 - f. **Rhythm of Entrance and/or Porch Projections**
The relationship of entrances and porch projections to the sidewalks of a building should be visually compatible with the prevalent architectural styles of entrances and porch projections on historic sites, buildings and structures within a historic district.
 - g. **Relationship of Materials, Texture and Color**
The relationship of materials, texture and color of the facade of a building should be visually compatible with the predominant materials used in the historic sites, buildings and structures within a historic district.
 - h. **Roof Shapes**
The roof shape of a building or structure should be visually compatible with the roof shape(s) of a historic site, building or structure within a historic district.
 - i. **Walls of Continuity**
Appearances of a building or structure such as walls, wrought iron, fences, evergreen landscape masses, or building facades, should form cohesive walls of enclosure along a street to insure visual compatibility of the building to historic buildings, structures or sites to which it is visually related.
 - j. **Scale of a Building**
The size of a building, the building mass in relation to open spaces, windows, door openings, balconies and porches should be visually compatible with the building size and building mass of historic sites, buildings and structures within a historic district.
 - k. **Directional Expression of Front Elevation**
A building should be visually compatible with the buildings, structures and sites in its directional character: vertical, horizontal or non-directional.

B. Waiver of the Code Provisions

1. The HRRB may recommend that the BCC approve a waiver of Code requirements for designated historic resources or contributing properties to a designated historic district. The waiver may occur

concurrently with the designation process or may be requested regarding any property subject to the historic site or district designation. Waivers may include setbacks, lot width, depth, area requirements, height limitations, open space requirements, vehicular requirements, design compatibility requirements, and other similar development regulations other than changes in permitted uses, density increases, or waiver of environmental or health standards. Before granting a waiver of Code requirements, the BCC must find:

- a. that the waiver will be in harmony with the general appearance and character of the community;
 - b. that the waiver will not be injurious to the area involved or otherwise detrimental to the public health, safety or welfare;
 - c. that the project is designed and arranged on the site in a manner that minimizes aural and visual impact on the adjacent properties while affording the owner(s) a reasonable use of their land; and
 - d. the waiver is the minimum necessary to allow reasonable use of the property while preserving the historic attributes of the property.
2. In approving a waiver, the BCC may prescribe any appropriate conditions necessary to protect and further the interests of the area and abutting properties, including but not limited to:
- a. landscape materials, walls and fences as required buffering;
 - b. modifications of the orientation of any openings; and
 - c. modifications for site arrangements.
3. The waiver shall be incorporated into the resolution designating the historic site or district with conditions and standards applicable to the property or district. If the waiver process occurs separately from the designation process, the notification and public hearings procedures required for historic designation shall be followed and a resolution approving the waiver shall be recorded in the public records of PBC, Florida.

C. Certificate of Appropriateness

1. Activities Requiring Certificate of Appropriateness

- a. No building, structure, appurtenance, improvement or landscape feature within PBC, which has been designated a historic site, pursuant to Art. 9.B.2.B, Criteria for Designation of Historic Sites and Districts, shall be erected, altered, restored, renovated, excavated, relocated, or demolished until a Certificate of Appropriateness regarding any exterior architectural features, landscape feature, or site improvements has been issued by the HRRB pursuant to the procedures of this Ordinance.
- b. A Certificate of Appropriateness shall be required for the erection, alteration, restoration, renovation, excavation, relocation, or demolition of any building, structure or appurtenance within any historic district established by PBC.
- c. A Certificate of Appropriateness shall be required for any material change in existing walls, fences and sidewalks, change of color, or construction of new walls, fences and sidewalks.
- d. Landscape features. Landscape features and site improvements shall include, subsurface alterations, site regrading, fill deposition, paving, landscaping walls, fences, courtyards, signs, and exterior lighting.
- e. Plan approval required. No Certificate of Appropriateness shall be approved unless the architectural plans for said construction, reconstruction, relocation, alteration, excavation, restoration, renovation, or demolition has been approved by the HRRB.

2. Certificate Not Required

- a. A Certificate of Appropriateness shall not be required for general and occasional maintenance and repair of any historic building, structure or site, or any building or structure within a historic district, except where proscribed or regulated by archaeological considerations.
- b. A Certificate of Appropriateness shall not be required for any interior alteration, construction, reconstruction, restoration or renovation. General and occasional maintenance and repair shall include lawn and landscaping care and minor repairs that restore or maintain the historic site or current character of the building or structure. General and occasional maintenance and repair shall also include any ordinary maintenance which does not require a building permit from the County. General and occasional maintenance and repair shall not include any of the activities described in Art. 9.B.4.C.1, Activities Requiring Certificate of Appropriateness, above, nor shall it include exterior color change, addition or change of awnings, signs, or alterations to porches and steps or other alterations which require excavation or disturbance of subsurface resources.

D. Demolition of Designated Historic Sites and Within Historic Districts

1. Public agencies having the authority to demolish unsafe structures shall receive notice of designation of individual sites, districts, pursuant to Art. 9.B, Historic Preservation Procedures. The HRRB shall be deemed an interested party and shall be entitled to receive notice of any public hearings

conducted by said public agency regarding demolition of any designated property. The HRRB may make recommendations and suggestions to the public agency and the owner(s) relative to the feasibility of and the public interest in preserving the designated property.

2. A Certificate of Appropriateness for demolition shall not be required when a building, structure or appurtenance designated as a historic site, or a contributing building, structure or appurtenance within a designated historic district, has been condemned by PBC. A demolition permit shall not be issued unless the HRRB has been notified of the proposed demolition and provided an opportunity to provide input as provided in Art. 9.B.4.D, Demolition of Designated Historic Sites and Within Historic Districts.
3. In the event the HRRB determines that a historic site is in the course of being demolished by neglect, it shall notify the owner of record of such preliminary finding stating the reason therefore and shall give the owner of record 30 calendar days from the date of notice in which to commence work rectifying the evidences of neglect cited by the HRRB. Such notice shall be accomplished in the following manner:
 - a. by certified mailing to the last known address of the owner of record, or
 - b. in the event the procedure outlined in Art. 9.B.4.D, Demolition of Designated Historic Sites and Within Historic Districts above is not successful, then by attaching such notice to the historic site twice within a week.
 - c. upon the owner of record's failing to commence work within 30 calendar days of such notice, the HRRB shall notify the owner of record in the manner provided above to appear at the next public hearing of the HRRB. The HRRB shall cause to be presented at said public hearing the reasons for the notice, and the owner of record shall have the right to present any rebuttal thereto. If, thereafter, the HRRB shall determine that the historic site is being demolished by neglect, the HRRB shall forward a complaint to the Code Enforcement Division for action.
4. When an applicant seeks a Certificate of Appropriateness for the purpose of demolition of a non-condemned, contributing building, structure or appurtenance, the applicant must satisfactorily demonstrate to the HRRB the applicant's plans to improve the property.
5. The HRRB's refusal to grant a Certificate of Appropriateness for the purpose of demolition will be supported within 15 calendar days by a written statement describing the public interest that the HRRB seeks to preserve.
6. The HRRB may grant a Certificate of Appropriateness for demolition which may provide for a delayed effective date of up to six months from the date of HRRB's action. The effective date of the certificate will be determined by the HRRB based on the relative significance of the structure and the probable time required to arrange a possible alternative to demolition. The HRRB may delay the demolition of designated historic sites and contributing buildings within historic districts for up to six months, while demolition of non-contributing buildings within historic districts may be delayed for up to three months.
7. During the demolition delay period, the HRRB may take such steps as it deems necessary to preserve the structure concerned. Such steps may include, but not be limited to, consultation with community groups, public agencies, and interested citizens, recommendations for acquisition of property by public or private bodies or agencies, and exploration of the possibility of moving one or more structures or other features.
8. In connection with any Certificate of Appropriateness for demolition of buildings, structures or appurtenances as defined in this Article, the HRRB may request the owner, whether public or private, at the owner's expense, to salvage and preserve specified classes of building materials, architectural details and ornaments, fixtures, and the like for reuse in the restoration of other historic properties. The HRRB may require, at the owner's expense, recording of the historic resource's details for archival purposes prior to demolition by an interested, qualified, non-profit group(s) selected by the HRRB. The recording may include, but will not be limited to, photographs, documents, and scaled architectural drawings. The HRRB may also require the owner, at the owner's expense, to excavate, record, and conserve archaeological resources threatened by the alterations so permitted. With the owner's consent, an interested, qualified, non-profit group selected by the HRRB may salvage and preserve building materials, architectural details and ornaments, textures and the like at their expense respectively.
9. The HRRB shall consider, at a minimum, the guidelines listed below in evaluating applications for a Certificate of Appropriateness for demolition of designated historic sites or buildings, structures or appurtenances within designated historic districts:
 - a. Is the structure of such interest or quality that it would reasonably fulfill criteria for designation for listing on the National Register?

- b. Is the structure of such design, texture, material, detail, size, scale, or uniqueness of location that it could be reproduced only with great difficulty and/or economically unreasonable expense?
 - c. Is the structure one of the few remaining examples of its kind in the neighborhood, PBC or designated historic district?
 - d. Would retaining the structure promote the general welfare of PBC by providing an opportunity to study local history, architecture and design, or by developing an understanding of the importance and value of a particular culture and heritage?
 - e. Are there definite plans for immediate reuse of the property if the proposed demolition is carried out, and what effect will those plans have on the architectural, historic, archaeological, or environmental character of the surrounding area and district?
 - f. Does the building or structure contribute significantly to the historic character of a designated historic district and to the overall ensemble of buildings within the designated historic district?
 - g. Have reasonable measures been taken to save the building from further deterioration, collapse, arson, vandalism or neglect?
 - h. Has demolition of the designated building or structure been ordered by the appropriate public agency due to unsafe conditions?
10. Notice of application for demolition shall be posted on the premises of the building, structure or appurtenance proposed for demolition in a location and manner clearly visible from the street by the applicant using sign provided by PZB. Such notice shall be posted within three working days of receipt of the application for demolition by the HRRB.
11. Notice of demolition shall also be published in a newspaper of general circulation at least three times prior to demolition, the final notice of which shall not be less than 15 calendar days prior to the date of the issuance of the demolition permit. The first notice shall be published not more than 15 calendar days after the application for a Certificate of Appropriateness for demolition is filed with the HRRB.

E. Relocation of Historic Resources

The HRRB shall consider the following criteria for applications for Certificates of Appropriateness for the relocation of all historic resources and contributing properties or historic resources and contributing properties located within a designated historic district.

- 1. The historic character of the building or structure contributes to its present setting.
- 2. The reasons for the proposed move.
- 3. The proposed new setting and the general environment of the proposed new setting.
- 4. Whether the building or structure can be moved without significant damage to its physical integrity, or change in or loss of significant characteristics. Elements removed in order to move the building or structure shall be replaced following relocation.
- 5. Whether the proposed relocation site is compatible with the historical and architectural character of the building or structure.
- 6. When applicable, the effect of the move on the distinctive historical and visual character of a designated historic district.
- 7. The effect of relocation on subsurface resources.

F. Amendments to Designations

Applications for amendments to existing designated historic sites or designated historic districts shall be processed according to the provisions and procedures, of Article 9.B.3, Procedures, of this Code. Where the HRRB has issued a Certificate of Appropriateness for demolition or relocation, the historic designation classification shall only be changed through the amendment process as described herein.

G. Undue Economic Hardship

No decision of the HRRB shall result in undue economic hardship for the property owner. The HRRB shall have the authority to determine the existence of such hardship in accordance with the criteria for undue economic hardship set forth in this Code. In any instance where there is a claim of undue economic hardship as defined in the Code, the property owner may submit, by affidavit, to the HRRB, at least 15 calendar days prior to the public hearing, the following information.

- 1. For all property:
 - a. the amount paid for the property, the date of purchase, or other means of acquisition, such as gift or inheritance, and the party from whom purchased;
 - b. the assessed value of the land and improvements thereon, according to the two most recent assessed valuations;
 - c. real estate taxes for the previous two years;
 - d. annual debt service, or mortgage payments, if any, for the previous two years;
 - e. all appraisals, if any, obtained within the previous two years by the owner(s) or applicant(s) in connection with the purchase, financing or ownership of the property; and

- f. any information that the property is not marketable or able to be sold, considered in relation to any listing of the property for sale or rent, price asked, and offers received, if any, within the previous two years, including testimony and relevant documents regarding:
 - 1) any real estate broker or firm engaged to sell or lease the property;
 - 2) reasonableness for the price or rent sought by the applicant; and
 - 3) any advertisements placed for the sale or rent of the property.
 - g. Any information regarding the infeasibility of adaptive or alternative uses for the property that can earn a reasonable economic return for the property as considered in relation to the following:
 - 1) a report from a registered professional engineer in the State of Florida or an architect with experience in rehabilitation as to the structural soundness of any structures on the property and their suitability for rehabilitation;
 - 2) an estimate of the cost of construction, alteration, demolition, or removal, and an estimate of any additional cost that would be incurred to comply with the recommendation and decision of the HRRB concerning the appropriateness of the proposed alterations;
 - 3) the estimated market value of the property in the current condition, after completion of the demolition, after completion of the proposed construction, and after renovation of the existing property for continued use;
 - 4) in the case of a proposed demolition, the testimony of an architect, developer, real estate consultant, appraiser, or other real estate professional experienced in rehabilitation as to the economic feasibility of rehabilitation or use of the existing structure on the property;
 - 5) financial documentation of the ability to complete the replacement project which may include but is not limited to a performance bond, a letter of credit, or letter of commitment from a financial institution; and
 - 6) the current fair market value of the property, as determined by at least two independent certified appraisals.
 - h. Any State or Federal income tax returns relating to the property for the past two years; and
 - i. Any other information the applicant feels is relevant to show extreme economic hardship.
2. For income property (actual or potential):
 - a. annual gross income from the property for the previous two years, if any;
 - b. depreciation, deduction and annual cash flow, if any, for the previous two years before and after debt service;
 - c. status of leases, rentals or sales for the previous two years;
 - d. itemized operating and maintenance expenses for the previous two years, including proof that adequate and competent management procedures were followed; and
 - e. any other information, including the income tax bracket of the owner, applicant, or principal investors in the property, considered necessary by the HRRB to a determination as to whether the property does yield or may yield a reasonable return to the owners.
 3. The applicant shall submit all necessary materials to the HRRB staff by the closing date for the next scheduled HRRB hearing in order that staff may review the documentation. The staff comments shall be forwarded to the HRRB for review and made available to the applicant for consideration prior to the hearing.
 4. In the event that any of the required information is not reasonably available to the property owner and cannot be obtained by the property owner, the property owner shall file with his/her affidavit, a statement of the information which cannot be obtained and the reasons why such information cannot be reasonably obtained. Where such unobtainable information concerns required financial information, the property owner will submit a statement describing estimates which will be as accurate as are feasible.
 5. The HRRB may require that an applicant furnish such additional information as the HRRB believes is relevant to the HRRB's determination of any alleged undue economic hardship. The HRRB may also require, in appropriate circumstances, that information be furnished under oath.

Section 5 Enforcement Penalties

A. Enforcement of Maintenance and Repair Provisions

Where the HRRB determines that any improvements within the exterior of a designated historic site, or within a designated historic district, are endangered by lack of ordinary maintenance and repair, or of deterioration, or that other improvements in visual proximity to a designated site or designated historic district are endangered by lack of ordinary maintenance and repair, or of deterioration, to such an extent that it detracts from the desirable character of the designated historic site or designated historic district,

the HRRB shall request appropriate officials or agencies of the PBC government to require correction of such deficiencies under the authority and procedures of applicable ordinances, laws, and regulations.

B. General Enforcement Procedures

Violators of this Article shall be subject to a hearing before the PBC Code Enforcement Special Master. The Code Enforcement Special Master may require any person deemed to be in violation of this Ordinance to repair or cause to be repaired, or otherwise restore, the subject improvement, building, site structure, appurtenance, landscape or design feature to its appearance as it existed prior to the action taken by the violator which caused the violation. Further, if the Code Enforcement Special Master finds that a willful violation of this Code has occurred, PBC shall fine the violator a fine of up to \$500.00 per day or impose imprisonment in the county jail not to exceed 60 days or by both fine and imprisonment as provided in F.S. §125.69. Stat. In addition to the sanctions contained above, PBC may take any other appropriate legal action, including, but not limited to, requests for temporary and/or permanent injunctions to enforce the provisions of this Article.

Amendment History:

[Ord. 2003-067; January 2, 2004] [Ord. 2005-002; February 2, 2005]