

ORDINANCE NO. **X**

AN ORDINANCE REPEALING ARTICLE 11.4 OF THE UNIFIED DEVELOPMENT CODE, AND INSTITUTING ARTICLE 19 "HISTORICAL RESOURCE PROTECTION;" MAKING FINDINGS OF FACTS AND PURPOSE; REQUIRING PERMIT FOR DESTRUCTION OR ALTERATION OF SIGNIFICANT ARCHAEOLOGIC OR HISTORIC SITE; PROVIDING FOR THE DESIGNATION OF SITES AND FOR DEVELOPMENT ON IDENTIFIED SITES; PROVIDING FOR APPEALS AND DEFINITIONS; PROVIDING FOR AN HISTORIC PRESERVATION BOARD WITH DUTIES AND AUTHORITY; PROVIDING FOR THE CITY OF MILTON TO BECOME A CERTIFIED LOCAL GOVERNMENT FOR HISTORIC PRESERVATION PURPOSES; AND PROVIDING FOR SEVERABILITY, CODIFICATION AND EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MILTON, FLORIDA:

SECTION 1. Article 11.4, "Historical Resource Protection" of the Code of Ordinances of the City of Milton is hereby amended by repealing Article 11.4 in its entirety, replacing all references thereto, and enacting Article 19, to read as follows:

**Article 19. HISTORICAL RESOURCE PROTECTION**

**ARTICLE 19. - IN GENERAL**

**19.1 - Definitions.** **Add link to current list of historical properties – See Milton Register of Historic Places**

As used in this article, the following terms shall mean:

*Alteration.* Any act that changes the exterior features of a designated property.

*Amendment 3.* The Florida Constitution, Article VII, Section 3(e), and the Florida Legislature in Sections 196.1997 and 196.1998, govern the allowance of certain ad valorem tax exemptions for historic properties.

*Milton Register of Historic Places:* An official listing maintained by the city of all designated Historic Properties. <https://catalog.archives.gov/id/77843864#.YeGaBnf4-C0.link>

*Building.* Any structure with an impervious roof built for the support, shelter or enclosure of persons, animals, chattels, or property of any kind which has enclosing walls for fifty (50) percent or more of its perimeter. The term "building" shall be construed as if followed by the words "or part thereof."

*Building official.* The officer or other designated authority, or their duly authorized representative, charged with the administration and enforcement of the Florida Building Code in the City or Santa Rosa County.

*Certificate of appropriateness.* A written authorization issued by the historic preservation board required for any proposed work that will result in the exterior alteration, demolition, relocation, or reconstruction, of a designated historic resource; any proposed new construction associated with a designated historic resource **or within a designated historic district.**

*Certified local government.* A designated local government meeting the requirements of the National Historic Preservation Act Amendments of 1980 (PL 96-515), which implements regulations as established by the United States Department of the Interior (36 CFR 61) and the Florida Certified Local Government Guidelines provided by the Florida Department of State, Division of Historical Resources.

*Certificate of designation.* A written document indicating the designation of a historic resource meeting the criteria and being designated as such as outlined in this article.

*City Council or council.* Refers to the City Council of the City of Milton, Florida.

*Demolition.* Any act that destroys in whole or in part a site, building, or structure.

*Demolition by neglect.* Improper or inadequate maintenance of a historic resource which results in its substantial deterioration and threatens its continued preservation.

*Documentation.* Photographs, slides, drawings, plans, or written descriptions.

*Exceptional importance.* A historic resource that has achieved significance within the last fifty (50) years because of the importance of an event that has occurred there on the local, state, or national level; the community's strong associative attachment to the resource; or the significance of a building's architecture or architect.

*Florida Master Site File.* The state's clearinghouse for information on archaeological sites and historic structures, and field surveys of such sites and structures. It is a system of paper and computer files maintained by the Division of Historical Resources, Florida Department of State. Resources listed in this inventory do not have to meet a historical or cultural significance requirement.

*Historic preservation board or board.* An agency of the city government in and for the city. The board is vested with the power, authority, and jurisdiction to inventory, designate, certify, regulate and manage historic resources in the city as provided for in this article.

*Historic preservation fund.* The source from which monies are appropriated to fund the program of matching grants in aid to the states for historic preservation programs and projects, as authorized by Section IOI(d)(1) of the National Historic Preservation Act, as amended.

*Historic resource.* Any prehistoric or historic site, building, structure, objects or other real or personal property of historical, architectural, or archaeological value. These properties or resources may include, **but are not limited to**, monuments, memorials, Indian habitations, ceremonial sites, abandoned settlements, sunken or abandoned ships, engineering works, treasure troves, artifacts or other objects with intrinsic historical or archaeological value, or any part thereof, relating to the history, government or culture of the county, the state, or the United States of America.

*Integrity.* The authenticity of a resource's historic identity evidenced by the survival of physical characteristics that existed during the resource's historic or prehistoric period.

*Local register.* A means by which to identify and classify various sites, buildings, and objects as historic and/or architecturally significant.

*Mass.* The envelope or cubic footage of the structure, including, but not limited to all habitable space, garages, attics, storage areas and porches.

*National Register of Historic Places.* The national list of districts, sites, buildings, structures, and objects significant in American history, architecture, archaeology, engineering, and culture, maintained by the Secretary of the Interior under authority of Section IOI(a)(1)(A) of the National Historic Preservation Act, as amended.

*Object.* A material thing of functional, aesthetic, cultural, historical, or scientific value that may be by nature of design, movable, yet related to a specific outdoor setting or environment.

*Ordinary maintenance.* Any work for which a building permit is not required by law.

*Person.* An individual, firm, association, organization (whether social, fraternal or business), partnership, joint venture, trust company, corporation, receiver, syndicate, business trust or other group or combination acting as a unit, including any government.

*Planning Director.* The employee or consultant to the city or their duly authorized representative who is responsible for administering, interpreting, and enforcing the provisions of this article. The role shall be filled by the City of Milton Planning and Development Director or his designee.

*Property owner.* Any person, group of persons, firm, joint venture, corporation or other legal entity having legal title to the land regulated under this article.

*Rehabilitation.* The act or process of returning a property to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions or features of the property which are significant to its historical, architectural or cultural values.

*Restoration.* The act or process of accurately recovering the form and details of a property and its setting as it appeared at a particular period of time by means of the removal of later work or the replacement of missing earlier work.

*Scale.* The scale of a building is defined as the ratio of the mass of the building to the total buildable area of the property, as defined by maximum setback, step-back and height requirements.

*Site.* The location of a significant event, a prehistoric or historic occupation or activity, or building or structure, whether standing, ruined or vanished, where the location itself maintains a historical or archaeological value regardless of the value of any existing structures. **Revisit this definition**

*State Historic Preservation Officer (SHPO).* The official designated pursuant to F.S. § 267.031(7), to administer the state historic preservation program established for the purpose of carrying out the provisions of the National Historic Preservation Act of 1966, as amended.

*Structure means anything constructed or erected which is located 12 inches above the ground or attached to something located on the ground, exclusive of landscape materials.*

**Relocated Article 19.2 to Article 19.41 of the document.**

### 19.3 - Findings of fact, purpose, and intent.

(a) *Findings of fact.* The purpose of this article is to identify, evaluate, recognize, preserve and protect significant historic and archaeological resources by:

(1) Historic and prehistoric resources are nonrenewable and can contain artifacts and other associated remains and features, which can contribute to an understanding of an area's prehistory and history.

(2) The protection, enhancement and perpetuation of properties of historical, cultural, archeological, aesthetic and architectural merit are in the interests of the health, prosperity and welfare of the people of the city.

(3) The City of Milton contains significant historic resources dating to the founding of the City, and including structures in the Colonial Revival, Greek revival, Gothic Revival, Craftsman, and Frame Vernacular styles.

(4) This Article seeks to protect and preserve elements that contribute to the architectural and historic significance of the City of Milton, including but not limited to, distinguishing historic material, distinctive stylistic architectural features, examples of skilled craftsmanship, periods of construction, and significant historical, architectural, and cultural materials **or embodies the distinctive characteristics of a type or method of construction.**

(5) The City of Milton's Comprehensive Plan encourages the City of Milton to preserve and protect historically and architecturally significant resources and structures.

(6) The historic and architectural significance of the City of Milton has been established through field surveys and other inventory and analysis tasks; and

(7) It is desirable for the City to become a Florida Certified Local Government for the purpose of implementing the City's historic preservation policies and regulations.

(b) *Purpose.* The purpose of this article is to identify, evaluate, recognize, preserve and protect significant historic and archaeological resources by:

(1) Creating a historic preservation board with the power and duty to effectively administer this article.

(2) **Authorizing** the historic preservation board to certify designation of individual properties (including buildings, structures, sites and objects) as historically significant using the criteria established in this article **with property owner consent only.**

(3) Protecting the integrity of historic resources by requiring the issuance of certificates of appropriateness and certificates to excavate before allowing alterations, removal or disturbance of designated resources.

(4) Encouraging historic preservation by providing technical assistance and incentives, **including financial.**

(5) Managing the historic resources owned and/or operated by the city in a manner consistent with the city comprehensive plan and policy maintained by the Florida Department of State, Division of Historical Resources.

(c) *Intent.* The intent of this article is to promote the general health, safety and welfare of the public by:

(1) Stabilizing and improving property values through the rehabilitation of individual

properties and the revitalization of older residential neighborhoods and commercial areas

(2) Fostering and strengthening civic pride through acknowledgement of accomplishments of the past and protecting the city's heritage for the future.

#### **19.4 - Scope.**

This article shall govern and be applicable to all property located in the city. **Provide input from City legal counsel.**

#### **19.5 - Incentives.**

*Financial assistance.* All properties certified as historic resources under the scope of this article shall be eligible for any financial assistance set aside specifically for the preservation and protection of such resources as established by the city, the county, the state, or the federal government, provided they meet the requirements of such programs.

**Additional incentives to be discussed at next meeting.**

#### **Relocated Article 19.6 to end of Section 1**

#### **19.7 - Fees.**

The city council is hereby authorized to adopt a fee resolution to implement the provisions of this article.

#### **19.8 - Filing of historical material and data.**

The office of the city clerk shall file and record all such historical material and data that the board may direct to be filed and recorded.

## **19.9 - Re-hearings.**

- (a) If it is alleged that the historic preservation board or the city council has overlooked or misinterpreted some facts or points of law, a rehearing of any decision of the board or the city council may be granted by that body upon the request of any person or property owner that believes that they have been aggrieved by its decision, herein referred to as the movant. The request shall be in writing, shall be filed with the city staff within **thirty (30) working** days after rendition of the decision by the board or the city council, and shall state its grounds.
- (b) The movant shall then serve the request by certified mail or hand delivery upon the mayor and the city clerk, and the property owner if the movant is other than the property owner previously notified of the hearing, together with a notice stating the date, time and place it will be orally presented to the board or city council.
- (c) If the board or city council grants the motion, it shall state its reasons for doing so, and set a date, time, and place for another public hearing upon due public notice.

## **19.10 – Historic Preservation Board- Generally.**

- (a) *Creation.* The City of Milton Historic Preservation Board is referred to in this article as “the board”, as an agency (public concerns about agency vs. Board)of the city government in and for the city. The board is vested with the power, authority and jurisdiction to inventory, and designate new properties with property owner consent only The board shall also certify, regulate, and manage historic resources in the city as provided for in this article.
- (b) *Orientation.* The office of the city clerk and/or the city attorney will conduct a board orientation in the first quarter of the year in which appointments are to be made. The orientation will acquaint the board with parliamentary procedure, Sunshine law, public records law, and the city staff that will be available to the historic preservation board.
- (c) *Powers and duties.* The board shall have the following powers and duties:
  - (1) Adopt rules and procedures necessary for the implementation of the provisions of this article.
  - (2) Issue certificates of designation and designate eligible historic resources pursuant to the criteria outlined in this article. Verify inclusion of Sec. Of Interior Stand. In criteria referenced.
  - (3) Advise the city council on all matters related to historic preservation policy, including use, management and maintenance of historic resources.
  - (5) Propose and recommend to the city council financial and technical incentive programs to further the objectives of historic preservation.
  - (6) Educate owners of designated historic resources and the general public on the benefits of historic preservation and federal, state and local laws and policies regarding the protection of historic resources.
  - (7) Request grant assistance through the city council from state, federal or private sources for the purpose of furthering the objectives of historic preservation.
  - (8) Upon designation as a certified local government, to review and **with the owner’s**



approval make recommendations concerning National Register of Historic Places nomination and proposals for properties to the Florida Master Site File .

(10) Issue certificates of appropriateness when appropriate.

(11) Perform any other function or duty related to historic preservation authorized under this article or assigned by the city council.

(12) Be represented at pertinent historic preservation educational meetings, workshops, and conferences sponsored by the Florida Department of State, Division of Historic Resources, or the Florida Trust for Historic Preservation.

(13) Seek expertise on proposals or matters requiring evaluation by a professional or a discipline not represented on the board.

(14) Encourage board members to participate in the survey and planning activities of the city.

(15) The board shall conduct an annual goal-setting session where they will outline their work-plan for the year. The board will make an annual presentation to the city council on the accomplishment of their work plan.

(d) *Membership.*

(1) *Qualifications.* The board shall have seven(7) members, whose area of geographic responsibility is coterminous with the boundaries of the City of Milton with 1 member that is a non-resident that possess skills in historic preservation. The members of the board shall be appointed by the city council and approved by the city council. All

applicants for positions on the board shall submit relevant qualifications for the city council's consideration. Applicants shall be eligible to serve provided the applicant owns property or is a resident in the city prior to the date of making application. Preference is given to applicants with expertise in history, architecture, architectural history, civilization, cultural geography, cultural anthropology, American history, or historic preservation.

(2) *Term.* Members shall be appointed for a term of four years, except in the case of an appointment to fill a vacancy for the four-year period in which event the appointment shall be for the unexpired term only. Any member of the board may be removed from office by the city council in a regular meeting.

(3) *Meetings.* The board shall hold a minimum of four meetings per year at regular intervals.

(4) *Educational meetings and workshops.* Persons serving on the board are encouraged to attend educational meetings or workshops to develop a special interest, expertise, experience or knowledge in preservation, architecture, or quasi-judicial boards.

(5) *Appointed professionals.* The city may appoint professionals as needed to advise and assist the board, carry out delegated responsibilities, and undertake the requirements for certified local government certification.

(6) *Procedures and quorum.* Four members shall constitute a quorum for the transaction of business, and minutes shall be kept of all meetings. Each meeting shall have been previously noticed and shall be open to the public. No certificate of designation or certificate of appropriateness shall be approved unless a majority concurs. All records of the board, including its rules of procedure, minutes, and inventory, shall be maintained and considered to be public records open to inspection by the public. Upon designation as a certified local government, the board shall meet the reporting requirements outlined in the Florida Certified Local Government Guidelines.

(7) *Selection of chair and vice-chair; right to vote; minutes.* The board shall select a chair and vice-chair for one year terms and shall prescribe their duties and powers. Appropriate city staff members shall attend all meetings, acting in an advisory capacity and participating fully in board discussions, but having no right to vote. The board shall keep minutes of its proceedings, record the vote on each question and keep records of its discussions, recommendations, and other official actions.

(8) *Removal.* The city council may remove any member of the board for cause. Any member of the board who has two consecutive unexcused absences shall be automatically removed. A board vacancy shall be filled for the remainder of the unexpired term. The nomination by the City Council to fill a vacancy shall be made within sixty (60) calendar days of the vacancy.

(9) *Expenses.* The mayor is hereby authorized to pay the expenses of the historic preservation board. Staff to research further based on public concerns.

**19.11 Local Government Certification Program.** The City of Milton shall become certified pursuant to the Certified Local Government Program administered by the State Historic Preservation Officer ("SHPO").

(a) *Duties of the City Planning Department.* The City Planning Department shall perform all activities required for compliance with the Certified Local Government Program administered by the State Historic Preservation Officer ("SHPO"). The Planning Department shall provide written notice to the SHPO the next business day following the approval of any new historic landmark designation or alteration of any existing historic landmark designation. The Planning Department shall provide written notice to the SHPO no later than thirty (30) calendar days after any of the following events:

1. Changes in Historic Preservation Board membership.
2. Amendment of regulations governing the Historic Preservation Board; provided, however, that the SHPO shall review and approve any amendments prior to adoption by the Historic Preservation Board.
3. The Planning Department shall provide duplicates of all relevant documents to the SHPO and maintain written records verifying receipt of documents by the SHPO.
4. The Planning Department shall submit advance written notice of each Historic Preservation Board meeting to the SHPO at least thirty (30) calendar days before each meeting.

5. The Planning Department shall submit proposed amendments to any ordinance governing the Historic Preservation Board to the SHPO at least thirty (30) calendar days before the meeting at which such amendments will be considered; provided, however, that no amendments shall be adopted by the Historic Preservation Board until after the SHPO has reviewed and approved such amendments.
6. The Planning Department shall submit draft minutes of each Historic Preservation Board meeting to the SHPO no later than thirty (30) calendar days after each meeting.
7. The Planning Department shall submit approved minutes of each Historic Preservation Board meeting to the SHPO no later than thirty (30) calendar days after each meeting at which such minutes were approved.
8. The Planning Department shall submit written records of attendance by Historic Preservation Board members at each Historic Preservation Board meeting to the SHPO no later than thirty (30) calendar days after each meeting.
9. The Planning Department shall submit written records of attendance by the public at each Historic Preservation Board meeting to the SHPO no later than thirty (30) calendar days after each meeting.
10. The Planning Department shall submit an annual written report to the SHPO no later than November 1 of each year covering the time period from the previous October 1 through September 30. The annual report shall include the following information:
  - a. A copy of the rules of procedure for the Historic Preservation Board;
  - b. A copy of the historic preservation ordinance;
  - c. Resumes of all Historic Preservation Board members;
  - d. Changes to the membership of the Historic Preservation Board;
  - e. The total number of projects reviewed by the Historic Preservation Board;
  - f. A review of survey and inventory activity with a description of the system used;
  - g. New historic landmark designations;
  - h. New listings on the National Register of Historic Places; and
  - i. A report of all grant assisted activities.

### **19.13 - Appeal of decisions of the planning director.**

(a) The historic preservation board has the sole authority to hear and decide appeals from any order, requirement, decision or determination of the planning director in the enforcement of this article. Appeals may be taken by any person aggrieved, or by any officer, board, department, or agency of city government adversely affected by any decision of

the planning director. An appeal shall be taken within thirty (30) days after rendition of the order, requirement, decision, or determination, by filing with the planning director a written notice of appeal specifying its grounds.

(b) The appeal shall be on a form prescribed by the planning director.

(c) Upon receipt of the notice of appeal, the planning director shall transmit to the board all documents, plans, papers, minutes, applications, recommendations or other materials relating to the appealed decision.

#### **19.14 - Appeal of decisions of board.**

(a) The city council, acting as the redevelopment agency, has the sole authority to hear and decide appeals from any order, requirement, decision or determination of the historic preservation board, except for nominations for the National Register of Historic Places, which shall be appealed to the state historic preservation officer. Appeals may be taken by any person aggrieved or by any officer, board, department or agency of city government adversely affected by any decision of the board. An appeal shall be taken within thirty (30) days after rendition of the order, requirement, decision or determination, by filing with the planning director a written notice of appeal specifying its grounds.

(b) The appeal shall be on a form prescribed by the planning director.

(c) Upon receipt of the notice of appeal, the planning director shall transmit to the city council all documents, plans, papers, minutes, applications, recommendations or other materials relating to the appealed decision.

#### **19.15 - Initiation of process.**

The process for designation of historic resources shall be initiated by the filing of a completed application for a certificate of designation by the property owner upon payment of any applicable fees. The property owner shall also have the right to withdraw the application at anytime. **The City's planning director, through his own initiative, upon the request of the city council, historic preservation board, or a member thereof, may contact a property owner to inform him of the city's historic resource designation.** Remove text.

#### **19.16 - Application for certificate of designation.**

Prior to the designation of any historic resource pursuant to this article, an application for a certificate of designation shall be submitted to the historic preservation board by owner's consent. This application shall contain, as a minimum, the following information:

(1) For individual historic buildings, structures, and objects:

- a. A physical description of the building, structure or object and its character-defining features, accompanied by photographs.
  - b. A description of the existing condition of the building, structure or object, including any potential threats or other circumstances that may affect the integrity of the building, structure or object.
  - c. A statement of the historical, architectural or other significance of the building, structure or object as defined by the criteria for designation established by this article.
  - d. A statement of rehabilitative or adaptive use proposals, if applicable.
  - e. A location map showing zoning and other appropriate land use information and a legal description of the property.
  - f. The name of the building, structure or object, and the Florida Master Site File number, if applicable.
  - g. The name and address of the property owner.
  - h. Any other appropriate information requested by the board.
- (2) For individual archaeological or historic sites:
- a. The name of the site, and the Florida Master Site File number, if applicable.
  - b. A location map showing zoning and other appropriate land use information and a legal description of the property.
  - c. Culture or historic periods represented at the site.
  - d. The type of site and a list of any artifacts associated with the site.
  - e. A list of any references to human remains discovered at the site.
  - f. Photographs showing at least one (1) general view of the site and photographs of diagnostic artifacts found at the site (if available).
  - g. A statement of the historical and/or scientific significance of the site as defined by the criteria for designation established by this article. Include reference to Sec. Of Interior Standards.
  - h. A description of the physical condition of the site, including any potential threats or other threats that may affect the integrity of the site.
  - i. The name and address of the property owner.
  - j. Any other appropriate information requested by the board.

**19.17 - Procedure for issuance of certificate of designation.**

(b) *Public hearing.* For each proposed designation pursuant to this article, the board shall hold a public hearing within sixty (60) days after the filing of an application by the property owner for a certificate of designation with the planning director and after due public notice. The planning director, at the public hearing, shall:

- (1) Make recommendations to the board as to whether or not the building, structure or object is eligible for designation pursuant to this article and provide a listing of those features of the building, structure or object which require specific historic preservation treatments.
  - (2) Make recommendations to the board as to whether or not the site is eligible for designation pursuant to this article, which shall include a location map showing site boundaries, justification for such boundaries, relevant land use information and any proposed development.
- (c) *Action by board.* At the public hearing, the board shall either approve, deny, or approve with conditions a proposed certificate of designation pursuant to this article based on the criteria outlined in section 19.18. Unless appealed, the decision of the board shall be the final administrative action. Copies of the decision shall be mailed to the applicant and property owner within ten (10) days of the board's decision.
- (d) *Issuance of certificate; recommendation of amendments to comprehensive plan.* If a designation is made, the board shall issue the certificate of designation and recommend to the city council, if needed, amendments to appropriate elements of the comprehensive plan, including the future land use map, to show such designation. All designations shall be filed with the planning director.
- (e) *Suspension of building activities during review process.* Upon the filing of an application for certificate of designation, no permits may be issued authorizing building, alteration, demolition, relocation or excavation of the subject property until such time as final board administrative action occurs. The planning director shall notify the building official of the suspension of activities upon the filing of an application for designation. If a permit has been issued by the City prior to the application for designation, any such permit may be withdrawn by the City upon agreement of the planning director , building official and city manager.

**19.18 - Criteria for issuance of certificate of designation.**

The historic resources considered for issuance of a certificate of designation by the historic preservation board shall possess at least three (3) of the following characteristics: Add language from Section 19.3 regarding “embodies the distinctive type etc” here integrity of location, design, setting, materials, workmanship, be at least fifty (50) years old unless it has exceptional importance; and shall meet at least one (1) criterion in one (1) of the three (3) significant categories listed in this section:

- (1) A historic resource shall be considered historically significant if it is:
  - a. Associated with the life or activities of a person of importance in local, state, or national history;
  - b. The site of a historic event with a significant effect upon the city, county, state, or nation;
  - c. A prime historical example of the political, cultural, economic or social trends, successes, or failures of the people of the city;
  - d. Associated with a past or continuing institution which has contributed substantially to the life of the people in this city; or

- e. A building or structure, site, object if its location, landscape setting or environment exemplifies a specific historical context.
- (2) A historic resource shall be considered architecturally significant if it is:
- a. A building or structure that embodies distinctive characteristics of an architectural style, type, form, period or method of construction;
  - b. A building or structure that is the work of a prominent architect, builder or other design professional;
  - c. A building or structure possessing elements of design, detail, material or craftsmanship which are of outstanding quality;
  - d. A building or structure which represented, in its time, a significant technological innovation, or an adaptation to the state environment; or
  - e. An exceptional or unique example of a utilitarian structure or building.
- (3) A historic resource shall be considered archaeologically significant if it is:
- a. A site associated with an important historical event or person and which contains intact archaeological deposits;
  - b. A site of such condition that data recoverable from the site may provide unique or representative information on past human activities and behavior; or
  - c. A site that has in the past revealed information vital in developing well-established and widely accepted models and theories about past cultures and/or activities.

**19.19 - Rescinding designation.**

The designation of any historic resource may be rescinded through the same procedure utilized for the original designation provided that the following conditions are met:

- (1) The historic resource or contributing resource no longer retains its significance due to permitted alterations or extensive damage cause by fire or storm;
- (2) The board vote to rescind a designation is majority of the members attending

**19.20 - Activities requiring certificate.**

A certificate of appropriateness issued by the historic preservation board for designated properties, shall be required for any of the following activities:

- (1) Any alteration requiring a building permit or will change the exterior appearance of an individually designated historic building or structure.

- (2) Demolition of an individual building or structure that is listed as a contributing structure or issued a certificate of designation.
- (3) The relocation of any building or structure or individually designated historic resource.
- (4) Any new construction of principal or accessory buildings, structures, or any addition to any building designated as a historic resource.

#### **19.21 - Other permits and approvals.**

A certificate of appropriateness shall be considered prerequisite to the issuance of any other permits required by this article or the city council. The issuance of a certificate of appropriateness shall not relieve the applicant from obtaining other permits or approvals required by the city.

#### **19.22 - Certificate not required for certain work.**

A certificate of appropriateness shall not be required for painting using the approved historic paint color chart or other ordinary maintenance to the exterior of a building as defined in section 19.1. Upon application for a development approval, said application shall be reviewed by the planning director to determine whether or not the proposed project will change the exterior appearance of the designated building or structure. If there will be a change to the exterior appearance, then the owner shall apply for a certificate of appropriateness. Neither the planning director nor the historic preservation board shall consider interior arrangement or design when reviewing an application for a certificate of appropriateness unless such change affects the exterior appearance of the building.

#### **19.23 - Preapplication conference.**

Prior to making an application for a certificate of appropriateness, the applicant shall confer with the planning director on the nature and purpose of the proposed action. The prospective applicant shall be advised of the plans, photographs, statements or other exhibits necessary for submitting an application.

#### **19.24 - Application.**

Application to the historic preservation board for a certificate of appropriateness shall be on a form supplied by the planning director and filed with said officer. Applications shall include:

- (1) Plans for structural changes, where applicable.
- (2) A description of exterior finish materials (samples may be requested of nonstandard materials), where applicable.



- (3) Site plans, including landscape plans and building elevations, where applicable.
- (4) Photographs of the subject property, including areas of proposed work.
- (5) Written authorization of the owner if the applicant is other than the owner or attorney for the owner.
- (6) Other documentation of architectural compatibility as offered by the applicant or requested by the planning director or board.
- (7) The name, address and telephone number of the applicant.

### **19.25 - Public hearing.**

The historic preservation board shall hold a public hearing within sixty (60) days after the filing of a complete application for a certificate of appropriateness with the planning director and after due public notice for each certificate of appropriateness. The board shall also send, by certified mail, a notice of the proposed certificate of appropriateness to the owner of the property at least thirty (30) calendar days prior to the date of the public hearing, or the owner shall otherwise acknowledge notice of the public hearing to the planning director. At the public hearing, the planning director shall recommend approval, denial, or approval with conditions of the certificate of appropriateness. The planning director shall transmit said recommendation to the owner prior to the public hearing.

### **19.26 - Action by historic preservation board.**

At the public hearing provided for in this article, the historic preservation board shall approve, deny, or approve with conditions each application based on the appropriate criteria contained in this article and based on the Secretary of the Interior's Standards for Rehabilitation 36 CFR 67, after the public hearing, except as otherwise provided for in demolition situations outlined in section 19.30. Copies of the decision shall be mailed to the applicant and property owner within ten (10) days of the decision. Unless appealed, the decision of the board shall be the final administrative decision. After the issuance of a certificate of appropriateness, except for ordinary maintenance, no change may be made in the proposed work without resubmittal of an application.

### **19.27 - Review criteria for proposed exterior work on buildings or structures where a certificate of designation has previously been issued.**

In consideration of an application for a certificate of appropriateness for proposed exterior construction, the historic preservation board shall utilize the following guidelines based on the United States Secretary of the Interior's Standards for Rehabilitation, 36 CFR 67:

- (1) A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment. The historic character of a property shall be retained and preserved.
- (2) The removal of historic materials or alteration of exterior features that characterize a property shall be avoided.
- (3) Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or

architectural elements from other buildings, shall not be undertaken.

- (4) Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
- (5) Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.
- (6) Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, texture and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical or pictorial evidence.
- (7) Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
- (8) Significant archaeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, work shall be monitored by an archaeologist, as appropriate, and mitigation measures shall be undertaken.
- (9) New additions, exterior alterations or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
- (10) New additions or related new construction shall be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

**19.28 - Review criteria for proposed new construction and additions.**

New construction and additions associated with an individually designated historic resource shall be compatible with the buildings, site, or environment with which the new construction is visually related. Criteria to be considered by the historic preservation board shall include the following:

- (1) The height, volume, mass, scale, proportions and relationship between doors and windows, rhythm of solids and voids created by openings in the facade, materials used in the facade, the texture inherent in the facade, the pattern and trim used in the facade, and the design of the roof shall be compatible with any existing historic buildings within view of the property.
- (2) Rhythm created by existing building masses and spaces between them shall be preserved.
- (3) Architectural details should be incorporated as necessary to relate the new with the old and to preserve and enhance the inherent architectural characteristics of the area.

**19.29 - Review criteria for relocation.**

When an applicant seeks to obtain a certificate of appropriateness for the relocation of an individually designated resource the historic preservation board shall consider the following criteria:

- (1) The contribution the building or structure makes to its present setting.
- (2) Whether there are definite plans for the site to be vacated.
- (3) Whether the building or structure can be moved without significant damage to its physical integrity.
- (4) The compatibility of the building or structure to its proposed site and adjacent properties.

The applicant shall document, through photographs, the property in its original location prior to removal and provide copies to the board.

### **19.30 - Demolition of a historic resource where a certificate of designation has been issued.**

No certificate of appropriateness shall be issued for the demolition of a historic resource issued a certificate of designation unless the applicant demonstrates by the preponderance of the evidence that undue economic hardship or unusual and compelling circumstances support such a demolition.

(1) *Unusual and compelling circumstances.*

- a. *Criteria.* In situations where the applicant claims that unusual and compelling circumstances require the demolition of an individually designated historic resource the historic preservation board shall consider the following criteria:
  1. The building or structure is of such interest or quality that it would reasonably meet national standards for additional designation on the National Register of Historic Places or as a National Historic Landmark.
  2. The building or structure is of such design, craftsmanship or material that it could be reproduced only with great difficulty and/or expense.
  3. The building or structure is one (1) of the last remaining examples of its kind in the city or the region.
  4. Retention of the building or structure would promote the general welfare of the city by providing an opportunity for the study of local history, architecture or design.
  5. Definite plans exist for reuse of the property if the proposed demolition is carried out, and if the plans will have a positive effect on the character of the surrounding area.
  6. A reasonable effort was made to relocate the building or structure.
  7. Demolition of the designated building or structure has been recommended or ordered by the appropriate public agency due to unsafe conditions.
- b. *Action by board.* On applications for certificates of appropriateness for demolition claiming an unusual and compelling circumstance, the board may approve, approve with conditions, or deny the request or may suspend action to allow further study of the matter for a period not to exceed one hundred eighty (180) days from the date of the filing of the application. The length of the delay shall be determined

by the board based upon the probable time required to arrange a possible alternative to demolition. During the stay of demolition, the board may take such steps as it deems necessary to preserve the building or structure concerned in accordance with the purposes of this article. Such steps may include but shall not be limited to consultation with civic 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 the structure or building.

(2) *Undue economic hardship.*

a. *Criteria.* In situations where, by reason of particular site conditions and restraints or circumstances applicable to the property owner, strict enforcement of this article will deny the owner economically viable or reasonable use of a property, the applicant shall submit the following information to the planning director:

1. For all property:

- i. The amount paid for the property, the date of purchase and the party from whom the property was purchased.
- ii. The assessed value of the land and improvements thereon according to the two (2) most recent county property appraiser's assessments.
- iii. Real estate taxes for the previous two (2) years.
- iv. Annual debt service, if any, for the previous two (2) years.
- v. All appraisals obtained within the previous two (2) years by the owner or applicant in connection with the purchase, financing or ownership of the property.
- vi. Any listing of the property for sale or rent, price asked and offers received.
- vii. Any consideration by the owner as to profitable adaptive uses for the property.

2.

For income-producing property:

- i. Annual gross income from the property for the previous two (2) years.
- ii. Itemized operating and maintenance expenses for the previous two (2) years.
- iii. Annual cash flow, if any, for the previous two (2) years.

The board reserves the right to solicit expert testimony.

b. *Action by board.*

1. *Review.* The board shall review all evidence and information submitted by the applicant and make a determination as to whether the denial of a certificate of appropriateness for demolition will deprive the owner of reasonable use of, or economically viable return on, the property in question.
2. *Denial.* If the board decides that denial of the proposed action does not or will not deprive the owner reasonable use of or an economically viable return on the property, then the certificate of appropriateness for demolition will be denied.
3. *Approval.* In the event the board finds without approval of the proposed work all reasonable use of, or economic return from, a historic building or structure

which has been issued a certificate of designation will be denied a property owner, then the application shall be delayed for a period not to exceed one hundred eighty (180) days from the date of filing of the application. During this period the board shall investigate alternatives to preserve the property. Such alternatives may include, but are not limited to a reduction in real property taxes, financial assistance, changes in zoning, public purchase, and/or code exemptions. If by the end of the period for the stay of demolition the board has found that, without approval of the demolition, the property cannot be put to a reasonable use or the owner cannot obtain a reasonable economic return therefrom, then the board shall issue a certificate of appropriateness for demolition.

- (3) *Documentation of buildings.* The board shall, as a condition to approval of such demolition, have the power to require the documentation of buildings slated for such demolition by photographs and measured drawings.

### **19.31 - Maintenance of designated historic resources and demolition by neglect.**

The owner of any historic resource, whether vacant or inhabited, shall be required to properly maintain and preserve such historic resource in accordance with standards set forth herein. For purposes of this article, demolition by neglect is defined as any failure to comply with the minimum required maintenance standards of this section or any other provisions of the Code of Ordinances relating to building maintenance, whether deliberate or inadvertent.

- (1) *Required minimum maintenance standards.* It is the intent of this article to preserve from deliberate or inadvertent neglect, the historic resource, whether vacant or inhabited. All such resources shall be maintained according to minimum maintenance standards, preserved against decay, deterioration and demolition and shall be free from structural defects through prompt and corrective action to any physical defect which jeopardizes the building's historic, architectural and structural integrity;
- (2) *Notice, administrative enforcement and remedial action.* If, in the opinion of the board, or the code enforcement officer, any historic resource falls into a state of disrepair so as to potentially jeopardize its structural stability and/or architectural integrity, and/or the safety of the public and surrounding structures, or fails to satisfy any of the required minimum maintenance standards above, then the aforementioned officials shall have right of entry onto the subject property and may inspect the subject property after forty-eight (48) hours' notice to the owner of intent to inspect.
  - a. In the event the property owner refuses entry of any city official onto the subject property, the city may file an appropriate action compelling the property owner to allow such officials access to the subject property for an inspection.
  - b. Upon completion of the inspection of the subject property, a report delineating the findings of such inspection, as well as any remedial action required to address any violation of the required minimum maintenance standards, shall be immediately transmitted to the property owner and to the board.
- (3) *Code enforcement action-Additional requirements.* In any proceeding of special magistrate involving a historic resource the special magistrate shall be instructed as follows:

- a. That the subject of the code enforcement action is a historic resource and that these additional requirements apply to deliberations.
  - b. Every reasonable effort shall be made to stop and reverse any deterioration of the historic resource.
  - c. Demolition of a historic resource shall be ordered only in situations involving an immediate public safety risk and shall be required to meet the following conditions:
    - 1. A structural engineer, with a demonstrated knowledge and expertise in remediation of historic resources, determines that the structure cannot be reasonably repaired; and
    - 2. The planning director determines that there are no viable alternatives to demolition.
  - d. The board shall be notified, according to notification procedures herein, in advance of any code enforcement hearings regarding a historic resource.
  - e. The board may elect to take remedial action by the city to prevent demolition by neglect, including, but not limited to roof repairs, moisture intrusion remediation or structural shoring. If the owner does not make the repairs within a reasonable time, the Preservation Board or its agents may, after approval of the City Council, enter the property and make such repairs as are necessary to prevent demolition by neglect. The cost of the work shall be charged to the owner and may be levied by the City of Milton as a special assessment against the property.
- (4) *Emergency conditions; designated properties.* In any case where it is determined that there are emergency conditions dangerous to life, health or property affecting a historic resource an order to remedy these conditions without the approval of the board or issuance of a required certificate of appropriateness may be issued, provided that the planning director and the chair of the board has been consulted. The building official shall provide the board with adequate photographic evidence and a professional engineer's opinion as to the conditions warranting the demolition.
- (5) *Reconstruction.* A historic resource that is substantially destroyed by fire, storm or other hazard may be reconstructed accordance with the Secretary of the Interior's Standards. Notwithstanding the general requirements of the zoning district in which the resource is located, the reconstruction may be approved with the same setbacks, step backs and height from the finished floor as the resource it is replacing.

**19.32 - Activities requiring certificate.**

A certificate to excavate issued by the historic preservation board shall be required for proposed earth-disturbing activities that will have an adverse impact on any historic resource designated as archaeologically significant as provided for in this article. No earth-disturbing activity may occur within the boundaries of a designated archaeological site until a certificate to excavate is issued by the board.

### **19.33 - Determination of adverse impact.**

The owner of a designated historic resource with archaeological significance shall confer with the planning director prior to any earth-disturbing activity within the established boundaries of a designated archaeological site. A determination shall be made by the planning director as to whether an application for a certificate to excavate is warranted. Said determination shall be based on whether there is a substantial adverse impact on the designated resource and the potential for future impacts as a result of the proposed action. The planning director may request the following information to assist in making the determination:

- (1) Site plans, including landscape plans, where applicable.
- (2) A description of any earth-disturbing activity associated with the project, including depth of excavation and area of coverage.
- (3) Any other information required by the planning director deemed necessary for making an accurate determination.
- (4) An archaeological test survey, conducted by a professional archaeologist who meets the professional qualification standards as defined by 36 CFR 61 and the Florida Department of State, Division of Historical Resources, to further evaluate the extent and significance of archaeological deposits.

If the planning director makes a determination that the proposed activity will have a substantial adverse impact on a designated archaeological site, an application for a certificate to excavate must be filed with the planning director. If a determination of no substantial adverse impact is made, the project may proceed without action from the board.

### **19.34 - Application.**

Application to the historic preservation board for a certificate to excavate shall be made on a form supplied by the planning director. Said application shall be filed with said officer upon the determination made by the planning director as outlined in section 19.33. Applications shall be accompanied by full plans and specifications indicating areas of work that involve earth-disturbing activity. Also, a notarized authorization allowing such activity by the owner shall be provided if the applicant is other than the owner or attorney for the owner.

### **19.35 - Public hearing and notice of proposed certificate.**

The historic preservation board shall hold a public hearing within sixty (60) days after the filing of the application for a certificate to excavate with the planning director and after due public notice for each application for a certificate to excavate. The board shall also send by certified mail a notice of the proposed certificate to excavate to the owner at least thirty (30) calendar days prior to the date of public hearing, or the owner shall otherwise acknowledge notice to the planning director. At the public hearing, the historic



preservation officer shall recommend approval, denial, or approval with conditions of the certificate to excavate. The planning director shall transmit to the owner his recommendations on the application prior to the public hearing.

### **19.36 - Action by historic preservation board.**

After the public hearing, the historic preservation board shall approve, deny, or approve with conditions each application for an excavation certificate. Copies of the decision shall be mailed to the applicant and the property owner within ten (10) days of the decision. Unless appealed, the decision of the board shall be the final administrative decision. After the issuance of a certificate to excavate, no change may be made in the proposed work without resubmittal of an application.

### **19.37 - Mitigation of adverse impacts.**

The historic preservation board shall not approve any application for a certificate to excavate that does not provide for the mitigation of adverse impacts on a designated historic resource with archaeological significance. Upon receipt of a complete application, the board shall review the proposed project to determine the type of archaeological work that is necessary to mitigate the adverse impact of the proposed earth-disturbing activity on the affected archaeological resource. After receiving a complete application, a decision shall be made by the board as to the type of mitigation method appropriate for the project. The board shall select one (1) or more of the following alternatives:

- (1) *Site monitoring.* This method includes the visual inspection of a property by the planning director and/or a professional archaeologist for evidence of artifacts or structural remains unearthed during the development process or earth-disturbing activity. If significant archaeological deposits are unearthed during project-related activity, work may be halted by the board, with the recommendation for such action from the planning director or a professional archaeologist, for a period not to exceed one hundred eighty (180) days from the date of the filing of the application. This time delay may be used to conduct any necessary archaeological work. At the end of the delay, the applicant will be allowed to continue the project as planned.
- (2) *Subsurface testing.* This method includes limited sampling prior to the development process. Work of this nature must be conducted and/or supervised by a professional archaeologist. In situations where additional effort is warranted, the board may request the applicant to conduct full-scale excavation and/or in-situ preservation.
- (3) *Full-scale excavation.* If the area to be adversely impacted by the proposed project contains significant archaeological deposits as determined through documentary records and/or subsurface testing, a full-scale excavation may be warranted. This action requires a team supervised by a professional archaeologist. The time required for excavation will depend on the type and size of site, extent of soil disturbance, definition of the site made during the excavation, and weather conditions, but shall not exceed three hundred sixty-five (365) days in duration.
- (4) *In-situ preservation.* This method should be utilized, if feasible, as an alternative for full-scale excavation in projects that involve significant archaeological deposits. In-situ preservation is defined as maintaining the archaeological site in an undisturbed state at its

present location such as through an easement, preserve, passive park or designated open space area, or by sealing the site under pavement and/or fill. Specific boundaries are identified and all development activity and earth-disturbing activity occurs outside of the identified boundaries.

**19.38 - Reporting requirements for archaeological work.**

Any person conducting archaeological work in accordance with this article shall complete a Florida Site File form and a written report that meets the guidelines of the Florida Department of State, Division of Historical Resources. A copy of the Florida Site File form and the report will be provided to the historic preservation board and the Florida Department of State, Division of Historical Resources prior to the issuance of a certificate to excavate.

**19.39 - Assistance with costs of archaeological work.**

The historic preservation board may assist the applicant in obtaining funding or volunteer assistance for archaeological work.

**19.40 - Correlation with other permits.**

A certificate to excavate shall be considered prerequisite to the issuance of any other permits required by ordinance of the city. The issuance of a certificate to excavate shall not relieve the applicant from obtaining other permits or approvals required by the city.

**19.2 – Notice of violation; penalty; additional remedies. – Will require re-numbering**

- (c) If the planning director finds that any provision of this article is being violated, the property owner shall be notified, in writing, indicating the nature of the violation and ordering any action necessary to correct it.
- (d) Violation of this article is punishable as provided in Chapter 20 of the City of Milton Code of Ordinances.

In addition to any other remedies, whether civil or criminal, the violation of this article or any lawful order of the city council, the city historic preservation board or the planning director may be restrained by injunction, including a mandatory injunction, and otherwise abated in any matter provided by law.

**19.6 - Stop work orders. – Will require re-numbering**

Any work conducted contrary to the provisions of this article on designated properties or structures shall be immediately stopped upon notice from the planning director, a code enforcement officer, or building inspector that the work does not conform to the terms of this article. Notice shall be in writing and shall be given to the property owner, their agent or the person doing the work and shall be posted on the property. The notice shall state all conditions under which work may be resumed. In emergencies, such as cases where the historic object or property will be irreparably destroyed or historic fabric removed the planning director, a code enforcement officer, or building inspector shall not be required to furnish written notice of the stop work order.

**Section 2: Severability.**

If any provision or portion of this ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this Ordinance and the City of Milton’s Unified Development Code shall remain in full force and effect.

**Section 3: Repealer.**

All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

**Section 4: Effective Date.**

This Ordinance shall be effective upon passage by the City Council.

PASSED AND DULY ADOPTED, with a quorum present and voting by the City Council of the City of Milton, Florida, the \_\_\_\_\_ day of \_\_\_\_\_, 2021.

CITY OF MILTON, FLORIDA

BY: \_\_\_\_\_  
MAYOR, PRESIDENT OF CITY COUNCIL

ATTEST:

CITY CLERK: \_\_\_\_\_

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

Legal in form and valid when signed by City Attorney.

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Alex Andrade

