



# **Town Code of Jupiter**

## **Chapter 27, Article X**

### **DIVISION 35. HISTORIC AND ARCHAEOLOGIC PRESERVATION**

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#### **Sec. 27-1675.5. Declaration of legislative intent.**

It is hereby declared that the protection, enhancement and preservation of properties, structures, artifacts, documents, memorabilia, and other physical assets of historical, archaeological, architectural, and/or cultural significance are in the interest of the public health, safety and general welfare of the residents of and visitors to the Town. Therefore, this division is intended to:

- (1) Effect and accomplish the protection, enhancement, and preservation and study of archaeological sites, properties, structures, improvements, landscape features, artifacts, and other physical assets located within the Town which represent distinctive elements of the Town's prehistoric, historic, architectural, and/or social character;
- (2) Safeguard the Town's history, heritage, and unique attributes;
- (3) Foster civic pride and respect for the accomplishments of the past; and
- (4) Protect and enhance the Town's attraction of visitors and support and stimulate the economy from increased tourism.

#### **Sec. 27-1675.6. Scope of regulations.**

The land development regulations established herein shall apply to all property in the Town and to those properties over which the Town has land use planning responsibilities pursuant to F.S. Ch. 163. Nothing contained herein shall supersede or conflict with the Town's building and land development regulations. The land development regulations contained herein shall be cumulative and read in conjunction with other land development regulations of this Code.

#### **Sec. 27-1675.7. Reserved.**

**Editor's note—**

Ord. No. 5-13, § 3, adopted May 7, 2013, repealed § 27-1675.7 which pertained to definitions and derived from Ord. No. 8-99, § 4, adopted May 4, 1999; and Ord. No. 32-03, § 2, adopted Aug. 10, 2003. See § 27-1

**Sec. 27-1675.8. Historic Resources Board established.**

- (1) *Establishment.* The Town Council hereby establishes the Town of Jupiter Historic Resources Board (Board) whose responsibility shall be to perform the duties and responsibilities identified herein and such other duties as may be assigned to it by the Town Council.
- (2) *Membership.* The Board shall consist of seven members appointed by the Town Council. To the extent available, members shall have professional experience in the disciplines of history, architecture, architectural history, archaeology, planning, or other historic preservation related disciplines such as urban planning, American studies, American civilization, cultural geography, cultural anthropology, or American history. All applicants for positions on the Board shall submit professional or other relevant qualifications for Council consideration. A majority of the members of the Board shall be residents of the Town. However, to meet the professional experience guidelines noted above, the Town Council may appoint up to three members of the Board who are not residents of the Town.
- (3) *Terms of office.* Members shall serve terms of two years. Initial appointments for three members shall expire in two years, for two members in one year. When a vacancy occurs on the Board, it shall be filled by the Town Council as quickly as possible for the remainder of the unexpired term. Each member of the Town Council may nominate one person to serve. The appointment of all members shall be subject to the Town Council's approval.
- (4) *Quorum, officers, rules of procedure.*
  - (a) No meeting of the Board shall be called to order, nor any business transacted, without a quorum consisting of a majority of the members of the Board. A majority of the quorum present shall be necessary for the Board to take action.
  - (b) The members of the Board shall elect a Chairman and Vice Chairman who shall serve terms of one year. The Vice Chairman shall act as Chairman in the absence of the Chairman and shall have all powers of the Chairman. The Chairman shall be in charge of all proceedings before the Board.
  - (c) The Town Clerk shall provide all notices of and shall record all meetings of the Board and shall maintain the minutes of these meetings.
  - (d) The Community Development Department (Department) shall furnish the Board with administrative support, including fiscal support, subject to budgetary approval by the Town Council. The Department may approve and issue regular certificates of appropriateness.
  - (e) All meetings of the Board shall be governed by Robert's Rules of Order.
  - (f) Meetings of the Board shall be held quarterly, or as often as may be necessary for the Board to discharge its responsibilities.

The Town Council may appoint one of its members to serve as an ex officio member of the Board.
- (5) *Responsibilities.* The Board shall have the following responsibilities:
  - (a) Promote the preservation and conservation of historic and archaeological resources within the Town.
  - (b) Cooperate and coordinate with property owners, public and private organizations, and businesses to ensure the conservation and preservation of archaeological sites and the

contents of identified historic and/or archaeological sites, improvements or districts of historic and/or archaeological significance.

- (c) Advise the Town Council concerning land use plan amendments and land development regulations as they relate to the preservation of historic and/or archaeological resources.
- (d) To conduct public hearings regarding historic and/or archaeological resources and make recommendations to the Town Council regarding applications for historic designation, demolition permit applications, and the nomination of properties to the National Register of Historic Places, and to approve and issue special certificates of appropriateness and certificates to dig.
- (e) Subject to Town Council direction and appropriation, the Board may participate in the National Register program in Florida, as defined by the 1981 and subsequent amendments to the Historic Preservation Act of 1966 and regulations and rules drafted pursuant to those amendments by the National Park Service and the Florida State Bureau of Historic Preservation.
- (f) To cooperate with and enlist the assistance of other public or private organizations in matters involving historic preservation, renovations, rehabilitation, and reuse; and to support increased public awareness of the value of historic preservation.
- (g) To maintain a list of all designated historic and archaeological resources within the Town's boundaries, irrespective of whether such determination was made by the Town, state, or federal authorities. This list shall be known as the "Town of Jupiter List of Designated Historic Resources." For the purposes of this division, the designation of properties on the Town's List of Designated Historic Resources shall supersede conflicting determinations by other agencies, authorities, or individual professional opinions.
- (h) To survey and maintain inventories of potential historic and/or archaeological resources in the Town and plan for their preservation.
- (i) To maintain a copy of the Florida Master Site File for all recorded historic resources in the Town; maintain a series of United States Geological Survey (U.S.G.S.) topographical maps upon which historic and archaeological resources recorded on the Florida Master Site File are shown, and a series of soil survey maps upon which archaeological sensitive zones are shown; maintain a copy of the Town's official zoning map upon which all designated historic resources are shown.
- (j) Recommend the design of standardized historic markers and plaques for designated historic and archaeological sites and districts within the Town.

**Sec. 27-1675.9. Historic resource designation procedures.**

- (1) *Purpose and intent.* This section provides mechanisms to promote historic preservation in the Town by the designation of historic sites and districts, and by the regulation of construction and demolition at historic sites and within historic districts.
- (2) *Criteria.*
  - (a) To qualify as a designated historic site or historic district, properties, individual properties, structures, sites and buildings, or groups of properties, structures, sites and buildings, the proposed site or district shall meet one or more of the following criteria:
    1. Is associated in a significant way with the life or activities of a major person important in Jupiter, Palm Beach County, Florida or national history;
    2. Is associated with an historic event with significant effect upon Jupiter, Palm Beach, the Town, County, State or nation;

3. Is associated in a significant way with a major historic event whether cultural, economic, military or political;
4. Exemplifies the historic, political, cultural or economic trends of the community history;
5. Is associated in a significant way with a past or continuing institution which has contributed to the life of the Town;
6. Portrays the environment in an era of history characterized by one or more distinctive architectural styles;
7. Embodies those distinguishing characteristics of an architectural style, period or method of construction;
8. Is an historic or outstanding work of a prominent architect, designer, landscape architect, or builder; or
9. Contains elements of design, detail, material, or craftsmanship of outstanding quality or which represents, in its time, a significant innovation or adaptation to the south Florida environment.

(b) A building, structure, site, or district will be deemed to have historic significance if, in addition to, or in the place of 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 or those of Palm Beach County.

(c) 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:

1. A religious property deriving primary significance from architectural or artistic distinction of historic importance.
2. 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.
3. A birthplace or grave of an historic figure of outstanding importance if there is no other appropriate site or building directly associated with his/her productive life.
4. 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.
5. A property primarily commemorative in nature if design, age, tradition or symbolic value have invested it with its own historic significance.
6. 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.

(3) *Application for historic site or historic district designation.*

(a) Applications for historic or archaeological site or district status for privately owned property may be initiated by the Town, the Historic Resources Board or the property owner of a site, except that applications for historic site status for privately-owned single-family homes may only be initiated by the owner of the property. An incorporated homeowners, condominium or community association may apply for historic district status. Application for historic or

archaeological site or district status for public property may be initiated by any resident of the Town, the Town, or the Board.

- (b) By resolution of the Town Council, a fee shall be established and may be amended to cover the Town's actual costs of reviewing and processing applications for historic designation. In addition, an application may require that funds be deposited in an escrow account to cover fees for consultant(s) which may be hired by the Department when needed to evaluate the eligibility of a property.
  - (c) Upon receipt of an application, the Department shall conduct a preliminary evaluation of the application to determine whether or not the Department has sufficient information to process the application and shall send a copy of the application by certified mail to the property owner(s) of record. The Department shall make the determination that an application is sufficient within 15 days working days of receipt of an application. If the application is not sufficient to process, the Department shall specify what additional information is necessary.
  - (d) When an application is sufficient, the Department shall prepare a designation report for consideration by the Board which shall contain the following information:
    - 1. Proposed legal boundaries of the historic improvement, archaeological site, or historic district; and
    - 2. An analysis of the historic or archaeological significance of the nominated property; and
    - 3. For those public buildings which have public access, an analysis of interiors with features of exceptional architectural, aesthetic, artistic or historic significance.
    - 4. Any proposed specific land development regulations.
    - 5. Any conditions beyond the standards contained in the land development regulations or conditions based on the development standards for historic districts and sites of [section 27-1675.10](#)
- (4) *Public hearings required for historic site or district designation.*
- (a) After the Department prepares the designation report, the Board shall conduct a public hearing to evaluate and receive comments regarding the application. For each proposed designation of an individual site or district, and except as otherwise provided herein, the Board is encouraged to obtain the approval of the owner(s) of properties proposed for designation, by providing information on the benefits of designation. The owner(s) of the property shall be given an opportunity at the public hearing to object to the proposed designation.
  - (b) The Department shall, by certified mail at least 15 calendar days prior to the public hearing, mail a copy of the designation report and a notice of public hearing to the property owner(s) of record as determined by the most current Palm Beach County property tax rolls then available. Refusal to accept this notice of public hearing shall not invalidate the hearing. In addition, all property owner(s) of record, as determined by the most current Palm Beach County property tax rolls, 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 within the Town 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.
  - (c) Upon the mailing of the designation report to the property owner(s), the Town shall cease issuing permits for any new construction, alteration, relocation or demolition of the property which is the subject of a proposed designation. No permits shall be issued by the Town until after the Town Council approves or denies the nomination for historic site or district status, or the application is withdrawn by the person or entity who has initiated the application.

- (d) After the close of the public hearing, but no later than 45 calendar days following the close of the public hearing, the Board shall vote at a public hearing and make its recommendation to the Town Council on the designation.
  - (e) The Town Council shall thereafter hold a public hearing following the same notice requirements set forth in (b) above.
  - (f) If the Board recommends designation of a district, a vote of the property owners shall be taken prior to the public hearing before the Town Council. The Town shall send by certified mail to each record owner a ballot, notification of the date the ballot is due back, and a self-addressed, stamped envelope. Each parcel as identified within the proposed district shall have one vote. The marked ballots shall be returned to the Town Clerk within 30 calendar days from the date of mailing of the ballots. Any ballots not returned within 30 days from the date of mailing shall be disqualified. A two-thirds majority of the votes cast and received by the Clerk within the 30 days of mailing in favor of the district shall be a pre-requisite to the Town Council's designation of a district.
  - (g) At its public hearing, the Town Council shall consider the application, all relevant support materials, the designation report, the recommendations of the Board and the criteria for designation, and may, at the conclusion of the hearing, adopt a resolution approving, approving with conditions, or denying the historic site or district designation. For property not owned by a governmental entity, a supermajority vote of the Town Council is required for designation. For single-family homes, the approval of the property owner is required for designation.
  - (h) Amendment or rescission. The Town may amend or rescind any designation provided it complies with the same notice and public hearing requirements and other procedures used in approving the original designation.
- (5) *Town of Jupiter Register of Historic Places.*
- (a) If the Town Council approves the nomination of an historic site or an historic district, said site or district shall be listed on the Town of Jupiter Register of Historic Places. The Town of Jupiter List of Designated Historic Resources shall be maintained by the Town Clerk.
  - (b) The Town Council shall issue an official certificate of historic significance to the owner of properties listed individually on the Town of Jupiter List of Designated Historic Resources or judged as contributing to the character of an historic district listed on the Town of Jupiter List of Designated Historic Resources. The Town Manager, or the Town Manager's designee, is authorized to issue and place official signs denoting the geographic boundaries of each historic site or district listed on the Town of Jupiter List of Designated Historic Resources.
- (6) *Recording.* The resolution designating an historic site or historic district shall be recorded in the public records of Palm Beach County, Florida.

**Sec. 27-1675.10. Modifications/development of historic sites.**

- (1) *Certificate of appropriateness.*
- (a) Activities requiring a special certificate of appropriateness (approved by the Historic Resources Board).
    1. The erection, alteration, restoration, renovation, excavation, relocation, or demolition of an improvement or landscape feature, of any designated historic site, historic building or which is located within any historic district.
    2. Any material change in existing walls, fences, paving and sidewalks, change of color, or construction of new walls, fences, paving and sidewalks.
    3. Any material change in the landscape features or site improvements of any historic site.

- (b) Activities requiring an administrative certificate of appropriateness.
    - 1. Those activities listed in subsection (a) above, which pertain to locally designated sites contained which are within the U.S. Department of the Interior's Jupiter Inlet Lighthouse Outstanding Natural Area (JILONA), and which are not otherwise subject to Federal review for consistency with all Federal laws and statutes contained in the JILONA Comprehensive Management Plan and Environmental Assessment.
    - 2. Any other activities that are considered routine for design features including, but not limited to changes in, roofing materials, window types, shutter types, doors, porches, or other similar appurtenance, as contained in the certificate of appropriateness approval matrix. The official copy of the certificate of appropriateness approval matrix shall be maintained by the Department of Planning and Zoning. The approved certificate of appropriateness matrix and any amendments thereto shall be subject to the review and approval of the Town Council, after consideration of a recommendation from the Historic Resources Board. The certificate of appropriateness matrix contains a list of those design features and indicates which features may be administratively reviewed and which require approval by the Historic Resources Board through the special certificate of appropriateness process.
  - (c) *Plans required.* No special certificate of appropriateness shall be approved unless those plans necessary for the construction, alteration, restoration, renovation, or excavation of a designated historic structure have been submitted to the Town and approved by the Historic Resources Board. No special certificate of appropriateness for the reconstruction, relocation or demolition of a designated historic structure shall be approved unless necessary plans have been submitted to the Town and approved by the Town Council, after consideration of a recommendation from the Historic Resources Board. Applications for administrative certificates of appropriateness for locally designated sites within the U.S. Department of Interior's JILONA shall submit all plans provided to the State Historic Preservation Officer.
  - (d) *Activities not requiring a certificate of appropriateness.*
    - 1. General and occasional maintenance and repair of any archaeological or historic improvement or site, or any improvement within an historic district, except where prohibited or regulated by archaeological considerations. 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 improvement. General and occasional maintenance and repair shall also include any ordinary maintenance which does not require a building permit from the Town. General and occasional maintenance and repair shall not include any of the activities described and defined in subsection (a) of this section, above, nor shall it include exterior color change, addition or change of awnings, signs, or alterations to porches and steps or any alterations which require excavation or disturbance of subsurface resources.
    - 2. Any interior alteration, construction, reconstruction, restoration or renovation.
- (2) *Applications for administrative and special certificates of appropriateness and evaluation guidelines.*
- (a) Applications for certificates of appropriateness shall be made on forms approved and provided by the Town and shall include such plans, drawings, or surveys, as required by the Town.
  - (b) Applications shall be submitted to the Department a minimum of ten calendar days prior to any meeting of the Board at which such application is to be considered.
  - (c) An applicant may request a pre-application conference with the Town staff to obtain information and guidance regarding the application process.
  - (d) In evaluating applications, the Department and Board shall utilize the most recent U.S. Secretary of the Interior's Standards for Rehabilitation for the evaluation of applications for a certificate of appropriateness.

- (e) If the Department determines that an application is not sufficient, it shall provide written notice to the applicant specifying the application's deficiencies. The Department 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 Department may consider the application to be withdrawn.
  - (f) If the application is determined sufficient, the Department Director shall determine if it requires an administrative or special certificate of appropriateness. If it is an administrative certificate, then the Department shall, within ten days from the date an application is found to be complete, approve or deny the application for the certificate of appropriateness. The determination shall be mailed to the applicant within three working days of the decision, accompanied by a written statement of the staff's determination. If the application is for a special certificate of appropriateness, the Director shall place the application on an agenda for the Board's consideration.
  - (g) An applicant may appeal a decision of the Department within 30 days of the decision by filing a written notice of appeal with the Board. 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 35 days of the filing of the appeal, the Board shall consider the appeal at which time it may affirm, modify or reverse the decision of the staff. Nothing contained herein shall preclude the Board from seeking additional information prior to rendering a final decision. The decision of the Board shall be in writing and a copy of the decision shall be forwarded to the appealing party.
  - (h) The Board will act upon the application for a special certificate of appropriateness or an appeal of an administrative certificate of appropriateness within 35 calendar days of receipt of the application, provided that the application meets the filing and technical sufficiency requirements as defined in this section, unless the applicant requests a continuance.
  - (i) If the Board or Department 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 the Town, except in the case of an administrative certificate of appropriateness for a locally designated site within the Department of the Interior's JILONA located on Federal public lands. A building permit or other development permit, order or approval shall be invalid if it is obtained without a certificate of appropriateness. Construction for which a certificate of appropriateness has been received, shall commence within 18 months from the date of the certificate's 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. If the Board denies the application for a special certificate of appropriateness or if the Department denies the application for an administrative certificate of appropriateness, a certificate of appropriateness shall not be issued.
  - (j) An applicant may appeal a decision of the Board within 30 days of the decision by filing a written notice of appeal with the Town Council. 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 30 days of the filing of the appeal, the Town Council shall convene a public hearing at which time it may affirm, modify or reverse the decision of the Board. Nothing contained herein shall preclude the Town Council from seeking additional information prior to rendering a final decision. The decision of the Town Council shall be in writing and a copy of the decision shall be forwarded to the Board and the appealing party.
  - (k) An applicant may appeal a final decision of the Town Council within 30 days of the rendition of the final, written decision by filing a petition for writ of certiorari in circuit court of the Fifteenth Judicial Circuit in and for Palm Beach County.
- (3) *Development standards for historic districts and sites.*

- (a) An historic improvement, site or district shall only be moved, reconstructed, altered or maintained in accordance with this division in a manner that shall preserve the historic and character of the site or district.
- (b) In considering proposals for alterations to the exterior of historic improvements and in applying development and preservation standards, the documented, original design of the improvement may be considered, among other factors.
- (c) An historic or archaeological site, improvement, or appurtenance either within an historic district or individually designated, shall only be altered, restored, preserved, repaired, relocated, demolished, or otherwise changed in accordance with the U.S. Secretary of the Interior's Standards for Rehabilitation, as same may be amended from time to time.
- (d) The relocation of historic improvements to other sites is prohibited unless it is shown that the preservation of the historic improvement on its existing site is inconsistent with the purposes of this division or would cause undue economic hardship to the property owner. The relocation of any improvement shall not affect the designation of an historic district or archaeological site.
- (e) The demolition of historic sites or historic improvements and appurtenances within historic districts shall be regulated by the Town Council.
- (f) The construction of new improvements, or the relocation, alteration, reconstruction, or major repair or maintenance of a noncontributing improvement within a designated historic district shall be subject to the same compatibility standards as any material change in the exterior appearance of an existing contributing improvement.
- (g) 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:
  - 1. *Height.* The height of proposed improvements or modifications shall be visually compatible in comparison or relation to the height of existing improvements.
  - 2. *Front facade proportion.* The front facade of each improvement shall be visually compatible with and in direct relationship to the width of the improvement and to the height of the front elevation of other adjacent or adjoining buildings within an historic district.
  - 3. *Proportion of openings (windows and doors).* The openings of any building within an historic district shall be visually compatible with the openings exemplified by the prevailing historic architectural character within the district. The relationship of the width of windows and doors to the height of windows and doors among buildings within the district shall be visually compatible.
  - 4. *Rhythm of solids to voids—Front facades.* The relationship of solids to voids in the front facade of an improvement shall be visually compatible with the front facades of historic improvements within the district.
  - 5. *Rhythm of buildings on streets.* The relationship of building(s) to open space between it or them and adjoining building(s) shall be visually compatible with the relationship between historic sites or improvements within an historic district.
  - 6. *Rhythm of entrance and/or porch projections.* The relationship of entrances and porch projections to the sidewalks of a building shall be visually compatible with the prevalent architectural character of entrances and porch projections on historic sites, and improvements within an historic district.
  - 7. *Relationship of materials, texture and color.* The relationship of materials, texture and color of the facade of a building shall be visually compatible with the predominant materials used in the historic sites and improvements within an historic district.

8. *Roof shapes.* The roof shape of an improvement shall be visually compatible with the roof shape(s) of an historic site or improvement within an historic district.
9. *Walls of continuity.* Appearances of an improvement such as walls, wrought iron, fences, evergreen landscape masses, or building facades, shall form cohesive walls of enclosure along a street to insure visual compatibility of the building to historic improvements or sites to which it is visually related.
10. *Scale of a building.* The size of a building, the building mass in relation to open spaces, windows, door openings, balconies and porches shall be visually compatible with the building size and building mass of historic sites and improvements within an historic district.
11. *Directional expression of front elevation.* A building shall be visually compatible with the improvements and sites in its directional character: vertical, horizontal or nondirectional.

(4) *Code provisions.*

- (a) The Board may recommend that the Town Council adopt specific land development regulations for designated historic resources or contributing properties to a designated historic district. The adoption of specific land development regulations may occur concurrently with the designation process. Specific land development regulations 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, health, or safety standards. Before granting a specific set of land development regulations, the Town Council shall determine:
  1. That the land development regulations will be in harmony with the general appearance and character of the community.
  2. That the land development regulations will not be injurious to the area involved or otherwise detrimental to the public health, safety or welfare.
  3. That the project is designed and arranged on the site in a manner that minimizes visual impact on the adjacent properties while affording the owner(s) a reasonable use of their property.
  4. The land development regulations are the minimum necessary to allow reasonable use of the property while preserving the historic or archaeological attributes of the property.
- (b) In approving the land development regulations, the Town Council may prescribe any appropriate conditions necessary to protect and further the interests of the area and abutting properties, including but not limited to:
  1. Landscaping, walls and fences as required buffering.
  2. Modifications of the orientation of any openings.
  3. Modifications for site arrangements.
- (c) Any specific land development regulations may be incorporated into the resolution designating the historic site or district and included with any other conditions and standards applicable to the property or district. If the process of establishing specific land development regulations occurs separately from the designation process, the notification and public hearings procedures required for historic designation shall be followed and a resolution approving the land development regulations shall be recorded in the public records of Palm Beach County.

(5) *Demolition of designated historic structures.*

- (a) Public agencies having the authority to demolish unsafe structures shall receive notice of the historic designation of individual sites and districts.

- (b) A certificate of appropriateness for demolition shall not be required when an improvement designated as an historic site, or a contributing improvement within a designated historic district, has been condemned by the Town.
- (c) In the event the Town Council determines that a designated historic site is suffering waste by neglect, it shall notify the property owner(s) of record and shall identify the corrections necessary to return the resource to its condition at designation and shall give the property owner of record 30 calendar days from the date of notice in which to commence work rectifying the evidences of neglect cited by the Town. Such notice shall be accomplished in the following manner:
  - 1. By certified mailing to the address of the property owner of record as determined by the most current Palm Beach County property tax rolls, or
  - 2. In the event the procedure outlined in (a) above is not successful, then the Town shall post a notice consistent with F.S. ch. 162, to the historic site.
  - 3. Upon the property owner of record's failure to commence work within 30 calendar days of such notice, the Town shall notify the property owner in the manner provided above to appear at the next public hearing of the Board. The Board shall cause to be presented at said public hearing the reasons for the notice, and the property owner shall have the right to present any rebuttal thereto. If, thereafter, the Town Council determines that the historic site is being demolished by neglect, the Council shall forward a motion to the code enforcement division for action.
- (d) When an applicant seeks a certificate of appropriateness for the purpose of demolition of a noncondemned designated historic site or a contributing improvement within a designated historic district, the applicant shall demonstrate to the Board that the applicant's plans to improve the property do not adversely affect the historic district. The Board shall then make its recommendation to the Town Council.
- (e) Notice of application for a certificate of appropriateness for demolition shall be posted on the premises of the improvement proposed for demolition in a location and manner clearly visible from the street by the applicant using signage provided by the Department. Such notice shall be posted within three working days of the Town's receipt of an application for demolition.
- (f) Notice of demolition shall also be published in a newspaper of general circulation at least three times prior to demolition. The first notice shall be published not more than 15 calendar days after the application for a certificate of appropriateness is filed with the Department and the final notice shall not be less than 15 calendar days prior to the date of the issuance of the demolition permit.
- (g) The Town Council's denial of a certificate of appropriateness for the purpose of demolition shall be supported by substantial competent evidence.
- (h) The Town Council may grant a certificate of appropriateness for demolition which may provide for a delayed effective date. The effective date of the certificate shall be determined by the Town Council based on the relative significance of the structure and the probable time required to arrange a possible alternative to demolition. The Town Council may delay the demolition of designated historic sites and contributing improvements within designated historic districts for up to six months from the date of the Town Council's action, while demolition of noncontributing buildings within historic districts may be delayed for up to three months.
- (i) During the demolition delay period, the Town Council may ask the Department to 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.

- (j) In connection with any certificate of appropriateness for demolition of improvements, the Town Council may require the property owner, at the property 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 Town Council may require, at the owner's expense, recording of the historic resource's details for archival purposes, prior to demolition, by an interested, qualified, nonprofit group(s) selected by the Town Council. The recording may include, but not limited to, photographs, documents, and scaled architectural drawings. The Town Council may also require that the owner, at the owner's expense, excavate, record, and conserve archaeological resources threatened by the alterations so permitted. With the owner's consent, an interested, qualified individual selected by the Town Council may salvage and preserve building materials, architectural details and ornaments, fixtures, and the like at the expense of the selected nonprofit organization.
- (k) The Town Council shall consider, at a minimum, the guidelines listed below in evaluating applications for a certificate of appropriateness for demolition of designated historic sites or improvements within designated historic districts:
  - 1. Is the structure of such interest or quality that it would reasonably fulfill criteria for designation for listing on the National Register?
  - 2. 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?
  - 3. Is the structure one of the few remaining examples of its kind in the neighborhood, designated historic district or the Town?
  - 4. Would retaining the structure promote the general welfare of the Town 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?
  - 5. 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?
  - 6. Does the improvement contribute significantly to the historic character of a designated historic district and to the overall ensemble of buildings within the designated historic district?
  - 7. Have reasonable measures been taken to save the building from further deterioration, collapse, arson, vandalism or neglect?
  - 8. Has demolition of the designated improvement been ordered by the appropriate public agency due to unsafe conditions?
- (6) *Guidelines for relocation of historic resources.* The Board shall consider the following standards in evaluating applications for a certificate of appropriateness for the relocation of all historic improvements and contributing improvements within designated historic districts:
  - (a) The contribution made by the historic improvement to its present setting.
  - (b) The reasons for the proposed move.
  - (c) The proposed new setting and the general environment of the proposed new setting.
  - (d) Whether the improvement 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 improvement shall be replaced following relocation.
  - (e) Whether the proposed relocation site is compatible with the historical and architectural character of the improvement.

- (f) When applicable, the effect of the move on the distinctive historical and visual character of a designated historic district.
  - (g) The effect of relocation on subsurface resources.
- (7) *Amendments to designations.* Applications for amendments to existing designations of historic sites or designations of historic districts shall be processed according to the provisions and procedures used for the origination of an application for designation. Where the Town Council has issued a certificate of appropriateness for demolition or relocation, the historic designation classification shall be automatically set aside in the case of demolition or amended to reflect the new location for relocation.
- (8) *Economic hardship.*
- (a) In any instance where there is a claim of undue economic hardship, the owner may submit, by affidavit, to the Board at least 15 days prior to the public hearing, an application containing, at a minimum, the following information:
    - For all property:
      1. The amount paid for the property, the date of purchase and the party from whom purchased;
      2. The assessed value of the land and improvement thereon according to the two most recent assessments prepared by the Palm Beach County Property Appraiser's office;
      3. Amount of real estate taxes paid for the previous two years;
      4. Annual debt service or mortgage payments, if any, for the previous two years;
      5. All appraisals, if any, obtained within the previous two years by the owner or applicant in connection with the purchase, financing, refinancing, or ownership of the property;
      6. Any listing of the property for sale or rent, price asked and offers received, if any; and
      7. Any consideration by the owner as to profitable adaptive uses for the property including but not limited to possible fair market rents for the property if it were rented or leased in its current condition.
    - For income-producing property:
      1. Annual gross income from the property for the previous two years;
      2. Itemized operating and maintenance expenses for the previous two years; and
      3. Annual cash flow, if any, for the previous two years.
  - (b) The Board may require that an applicant furnish such additional information as the Board believes is relevant to the Board's determination of any alleged undue economic hardship. The Board may evaluate the proposed requirements in the certificate of appropriateness and may modify the requirements as it deems necessary to mitigate the economic hardship as demonstrated by the owner.
  - (c) The same procedures used above may be used during Town Council consideration of the certificate of appropriateness.

**Sec. 27-1675.10.1. Historical and archaeological variances and other incentives for preservation.**

The Board may recommend to the Town's Zoning Board of Adjustment variances to appropriate Town land development regulations, such as setbacks, off-street parking, height, lot coverage and floor area ratio for those properties designated as historic sites or buildings, or structures within designated historic districts, or archaeological sites. In evaluating applications under this section, the criteria

contained in [section 27-89](#)(g) shall not apply. Rather, the Zoning Board of Adjustment may approve variances to the Town's land development regulations where it deems the variance to be appropriate and necessary for the continued preservation of the designated historic site or building, structure within a designated historic district or archaeological site, and only to the extent necessary for the preservation.

- (1) *Administrative variances.* The Community Development Director may, by written administrative decision, approve any variance request for any designated historical/archaeological site, district, structure, building or property which has received a certificate of appropriateness from the Historic Resources Board for matters involving setbacks, lot width, depth, area requirements, land development regulations, height limitations, open space requirements, parking requirements, and other similar zoning variances not related to a change in use of the property in question.
  - a. Before granting a variance, the Community Development Director must find:
    - 1. That the variance will be in harmony with the general appearance and character of the area.
    - 2. That the variance will not be injurious to the area involved or otherwise detrimental to the public health, safety or welfare.
    - 3. That the proposed work is designed and arranged on the site in a manner that minimizes adverse impact on the adjacent properties.
- (2) *Open space.* Historical/archaeological resources that are to be preserved may be utilized to satisfy required setbacks, buffer strips or open space up to the maximum area required by development regulations. Conservation of such historic or archaeological resources shall qualify for any open space requirements mandated by the development regulations.

**Editor's note—**

Ord. No. 32-03, § 6, adopted August 19, 2003, enacted a new section which was not specifically numbered. This new section has been placed as [§ 27-1675.10.1](#) for classification purposes, at the discretion of the editor.

**Sec. 27-1675.10.2. Tax exemptions for historic properties.**

- (a) *Scope of tax exemptions.* A method is hereby created for the Town Council, at its discretion, to allow tax exemptions for the restoration, renovation, or rehabilitation of historic properties. The exemption shall apply to 100 percent of the assessed value of all improvements to historic properties which result from restoration, renovation, or rehabilitation made on or after the effective date of this section. The exemption applies only to taxes levied by the Town. The exemption shall not apply to taxes levied for the payment of bonds or to taxes authorized by a vote of the electors pursuant to section 9(b) or Section 12, Article VII of the Florida Constitution. The exemption does not apply to personal property.
- (b) *Duration of tax exemptions.* Any exemption granted under this section to a particular property shall remain in effect for ten years, beginning January 1 of the year following the year in which final approval is given by the Town Council and the Palm Beach County Property Appraiser has been instructed to provide such exemption. The Town Council shall have the discretion to set a lesser term if requested by the property owner in its original application and covenant. The term of the exemption shall be specified in the resolution approving the exemption. The duration of the exemption as established in the resolution granting the exemption shall continue regardless of any change in the authority of the Town to grant such exemptions or any change in ownership of the property. In order to retain an exemption, however, the historic character of the property, and improvements which qualified the property for an exemption, must be maintained in their historic state over the entire period for which the exemption was granted.

(c) *Eligible properties and improvements.*

- (1) Property is qualified for an exemption under this section if:
  - a. At the time the exemption is granted, the property:
    1. Is individually listed in the National Register of Historic Places pursuant to the National Historic Preservation Act of 1966, as amended; or
    2. Is a contributing property to a national-register-listed district; or
    3. Is designated as a historic property, or as a contributing property to a historic district, under the terms of this section; and
  - b. The Board has certified to the Town Council that the property for which an exemption is requested satisfies paragraph 1 above.
- (2) In order for an improvement to a historic property to qualify the property for an exemption, the improvement must:
  - a. Be made after the date of adoption of this section; and
  - b. Be consistent with the United States Secretary of Interior's Standards for Rehabilitation; and
  - c. Be determined by the Board to meet criteria established in rules adopted by the Department of State, Division of Historical Resources, F.A.C. 1A-38 as amended, and
  - d. Be consistent with any ordinance of the Town designating the property as historic or designating the historic district in which the property is located.

(d) *Applications.* Any person or business entity such as a partnership or corporation which seeks an ad valorem tax exemption for the improvement of a historic property must, in the year the exemption is desired to take effect, file a written application with the Town Clerk on a form prescribed by the Department of State, Division of Historical Resources. Part I of the application, the preconstruction application shall be submitted before qualifying improvements are initiated and part 2, the final application "Request for Review of Completed Improvements," shall be submitted upon completion of the qualifying improvements.

- (1) *Preconstruction application.* A preconstruction application shall be filed with the Department before the qualifying project is initiated. The application shall include:
  - a. The name of the property owner and the location of the property which is the subject of the application;
  - b. A description of the improvements to real property for which an exemption is requested and the date of commencement of construction of such improvements;
  - c. Proof, to the satisfaction of the Board, that the property that is to be rehabilitated or renovated is a historic property under this section;
  - d. Proof, to the satisfaction of the Board, that the improvements to the property will be consistent with the United States Secretary of Interior's Standards for Rehabilitation and will be made in accordance with guidelines developed by the Department of State;
  - e. Other information identified in appropriate Department of State, Division of Historic Resources regulations, or requested by the Board; and
  - f. If the property is within the jurisdiction of the Board, a completed application for a certificate of appropriateness for the qualifying restoration, renovation, or rehabilitation. The Board will review the preconstruction application and approve or deny the application.
- (2) *Final application.* Upon completion of the work, a final application/request for review of completed improvements shall be filed with the Department. The Board shall recommend that

the Town Council grant or deny the application and exemption. Such reviews must be conducted in accordance with rules adopted by the Department of State. The recommendation, and the reasons therefor, must be provided to the applicant and to the Town Council before consideration of the application at an official meeting of the Town Council.

- (e) *Required covenant.* To qualify for an exemption, the property owner must enter into a covenant with the Town for the term for which the exemption is granted. The form of the covenant or agreement must be approved by the Department of State and must require that the character of the property, and the qualifying improvements to the property, be maintained during the period that the exemption is granted. The covenant shall be binding on the current property owner, transferees, and their heirs, successors, or assigns. Violation of the covenant results in the property owner being subject to the payment of the differences between the total amount of taxes which would have been due in March in each of the previous years in which the covenant was in effect had the property not received the exemption and the total amount of taxes actually paid in those years, plus interest on the difference calculated as provided in Section 212.12(3), Florida Statutes, as amended.
- (f) *Approval by Town Council.* A majority vote of the Town Council then present and voting shall be required to approve a written application for exemption. Such exemption shall take effect on the January 1 following substantial completion of the improvement. The Town Council shall include the following in the resolution approving the application for exemption:
  - (1) The name of the owner and the address of the historic property for which the exemption is granted.
  - (2) The period of time for which the exemption will remain in effect and the expiration date of the exemption.
  - (3) A finding that the historic property meets the requirements of this section.

**Editor's note—**

Ord. No. 32-03, § 7, adopted August 19, 2003, enacted a new section which was not specifically numbered. This new section has been placed as § 27-1675.10.2 for classification purposes, at the discretion of the editor.

**Sec. 27-1675.11. Archaeological resources protection.**

- (1) *Purpose.* The purposes of this section are to:
  - (a) Establish a procedure for review of development proposals on lands which have been identified as containing archaeological resources.
  - (b) Establish a method to review the potential archaeological significance of previously unidentified sites after the discovery of prehistoric or historical artifacts, skeletal or fossilized human remains, or nonhuman vertebrate fossils during development;
  - (c) Establish a mechanism to protect, when appropriate, resources of significant archaeological significance identified pursuant to this section that are deemed important by a qualified archaeologist knowledgeable concerning the prehistory or history of the Town of Jupiter, Palm Beach County, the State of Florida or the United States of America; and,
  - (d) Facilitate protection and study of resources of significant archaeological value without substantially delaying development.
- (2) *Map of archaeological sites and zones.* A map identifying known archaeological sites and areas of greatest potential for archaeological sites and called the Town of Jupiter Areas of Site Potential Map and attached as Exhibit A is hereby adopted and incorporated herein and shall be maintained by the Department. This map may be amended by resolution or ordinance adopted by the Town Council at a public hearing after considering a recommendation of the Board. The map shall be amended upon

determination by the Town that additional sites of significant archaeological value have been discovered. At a minimum, the map and the Florida Master Site Files shall be reviewed annually for possible map amendment. The owner(s) of the property proposed to be included in an archaeological zone shall be given an opportunity at the public hearing to comment on the proposed designation.

- (3) *Applicability.* This section is applicable within the incorporated limits of the Town and shall apply to:
- (a) All parcels of land which are identified as archaeological sites or potential sites on the map entitled "Areas of Site Potential;"
  - (b) A parcel on which a previously unidentified artifact or any human skeletal or fossilized human remain or nonhuman vertebrate fossils of significant archaeological value is found during site development or during any other activity which may disturb an archaeological site, and,
  - (c) All applications for Phase III Excavation.
- (4) *Development subject to archaeological review.*
- (a) *Parcels on identified sites.* Parcels on the Areas of Site Potential Map and proposals for Phase III excavation.
  - (b) *Parcels on unidentified sites.* When archaeological sites are discovered during development, including but not limited to, a site containing one or more artifacts, human skeletal, fossilized remains; or nonhuman vertebrate fossils are discovered during development or during other activity disturbing the site, all development or disruptive activity on the site shall cease. Before any further development or disruptive activity continues, the owner/developer shall:
    - 1. Stake the area directly over the find;
    - 2. Within 72 hours of discovering the potential find, the Department and, if applicable, the property owner shall be notified;
    - 3. Within three working days, a qualified archaeologist shall inspect and evaluate the site for the purpose of determining whether artifacts, human skeletal or fossilized remains, or nonhuman vertebrate fossils are located on the site. If the qualified archaeologist determines a significant archaeological resource is on site or likely to be on site, the Department shall issue an order suspending construction and define the area where the order 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 that does not directly impact the archaeological resource;
    - 4. A qualified archaeologist shall evaluate the significance of the archaeological find and submit a written archaeological evaluation report to the property owner and to the Director of the Department, postmarked within seven working days from issuance of the suspension order; and
    - 5. If a qualified archaeologist, including the Town's archaeological consultant, determines that the site contains artifacts of significant archaeological value, a certificate to dig shall be required before construction may proceed. If a qualified archaeologist determines that there is no reasonable possibility that artifacts of significant archaeological value are contained on the site, the archaeologist shall submit this finding to the Department as part of the archaeological evaluation report whereupon the Department shall immediately lift its suspension order; and
    - 6. In order to encourage individuals to bring potential artifacts to the Town's attention, private citizens engaged in disruptive activity which does not require a development order and uncovering a potential artifact, fossil, or remains, may request a waiver of application fees and shall not be subject to the notification time frame required in subsection (b) of this section, above.

- (c) *Loxahatchee River, coastal strand, high and moderate potential zones.* Applicants for site plans for large scale and small scale (excluding one single-family home) developments located within the Loxahatchee River, coastal strand, high or moderate potential zones identified on the Areas of Site Potential Map shall meet with the Department prior to submitting an application for site plan review. Applicants for site plans for large scale and small scale (excluding one single-family home) developments located within the high or moderate potential zones shall be required to obtain a certificate to dig. Applicants for site plans for large scale and small scale (excluding one single-family home) developments located within the Loxahatchee River or coastal strand zone shall meet with the Department in a preapplication conference. If recommended by the Town's archaeological consultant, applicants shall obtain a cultural resources assessment survey, prepared by a qualified archaeologist and shall submit the archaeologist's cultural resources assessment survey to the Department. The criteria used to determine the archaeological protection required includes, but is not limited to whether the property was previously disturbed and/or developed; is adjacent to, or within, a high potential zone; or is proximate to known archaeological sites. The applicant shall pay to the Department, a cost recovery fee for the costs incurred by the Department for the Town archaeological consultant's review of the cultural resources assessment survey submitted to the Department. The Department shall review the cultural resources assessment survey to determine if a certificate to dig is required and shall provide the applicant with its written determination within 15 business days of its receipt of the cultural resources assessment survey.
- (d) *Field review for certain activities at single-family residential parcels within certain archaeological zones.* Owners of single family residential parcels which are located within a high potential site zone who apply for a new construction or demolition permit are subject to an archaeological field review prior to the commencement of any development or disturbance activity. Owners of single-family residential parcels which are located within the high or moderate potential zone who apply for permits for pool construction, tree removal, or any other activity that may alter or reveal an archaeological site, may voluntarily submit to an archaeological field review. Owners of single-family residential parcels which are located within the high potential zone may request an archaeological field review at any time. Based on characteristics of the zone, owners may be subject to a complete field review and any additional guidelines the Board may deem necessary. In such cases, the Department shall approve the archaeological field review within ten days from the date a completed application has been submitted. A qualified archaeologist shall perform the archaeological field review and provide it to the Department. The archaeological field review shall include a determination as to whether or not there is a reasonable possibility that artifacts of significant archaeological value are contained on the owner's parcel, and, if so, the recommended action. If the owner's parcel is determined to have significant archaeological value, the owner shall obtain a certificate to dig before commencing any activity that alters the owner's parcel.

For single-family residential parcels within a high or moderate potential archaeological zone, the Town may elect to (1) bear the cost of the review, (2) contract directly with a qualified individual or firm to perform the review, or (3) reimburse the owner for pre-approved expenses. If no Town funds are made available for archaeological field reviews, an archaeological field review shall not be required.

The Department's approval of an archaeological field review shall include the date at which the proposed activity may begin which date shall not be more than 60 days from the approval date, unless the Board decides to recommend the owner's parcel as an historic individual site or district. Archaeological field reviews conducted by the Town shall be completed within 30 days unless the owner agrees to extend the time of the review.

- (e) *Sites containing human skeletal remains.* If human skeletal remains are found, then F.S. § 872.05, as amended, shall control.

(f) *Non-development related subsurface disturbances.* All applicants, governmental agencies, public and private utilities who submit an application for a permit for subsurface excavations related to the construction or extension of utilities, roadways, stormwater facilities or for the clearing of exotic vegetation within the Loxahatchee River, coastal strand, high or moderate potential zones and any known archaeological site, shall meet with the Department prior to submitting an application. Pursuant to the Town's archaeological consultant's evaluation of the area where a permit is being requested, the Department may require that the property be monitored as a condition of the issuance of the permit. The applicant shall pay to the Department a cost recovery fee for the costs incurred by the Department for the archaeological consultant's review of an application. Applicants submitting permit applications for subsurface disturbances listed herein above within listed archaeological zones, are not required to meet with the Department provided the applications are solely for maintenance or emergency repair work.

(5) *Certificate to dig.*

(a) *Application.* Owners of parcels or of properties which include a known archaeological site, or of archaeological sites discovered during development, or sites which are determined to have significant archaeological value, or of large scale or non-residential properties within either the High or Moderate Potential archaeological zone, or of large scale or non-residential properties within either the Loxahatchee River or Coastal Strand Zone for which the Department has determined, pursuant to subsection (4)(c) above, that a certificate to dig is required shall make application for a certificate to dig to the Department for review and approval and the issuance of the certificate to dig by the Board. Owners 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 Department. Only one certificate to dig shall be required to develop a site unless additional resources are found during site development.

(b) *Report contents of a certificate to dig.* The application for a certificate to dig shall be subject to an application fee established by the Department, governed by (c)4., below, and shall include a report prepared by a qualified archaeologist. The report shall at minimum contain a documented search of the Florida Master Site Files, 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 management. All reports submitted to the Department on properties determined to be of archaeological significance shall include the preparation of a Florida Master Site File form, which shall be forwarded by the Department to the Division of Historical Resources of the Florida Department of State Copies of Florida Master Site File forms shall be available at the Department.

(c) *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. If the application is determined to be incomplete, the Department shall request additional information by certified mail. When the application is complete, the Department shall forward the application to the Board. The Board shall hold a public hearing within 30 days of the date of receipt of the application by the Board. The Department shall prepare its evaluation of the application and notify the applicant of its findings at least ten working days prior to the public hearing. Evaluation of the application by the Department and the Board shall be based upon guidelines in this section and the recommendations included in the archaeologist's report. The Board's evaluation shall do one of the following:

1. If the property is determined to have no significant archaeological value or insignificant value, the Board shall, issue the certificate to dig, or lift the construction suspension order, if applicable, and the development may proceed; or
2. If the property is determined to have significant archaeological value, the Board shall issue a certificate to dig with conditions that are deemed necessary to protect the archaeological

resources or to permit the excavation of any part of the site found to be of significance, including conditions regarding site design. In order to protect archaeological resources of significant value, the Board may require the applicant to do one or more of the following as a condition of the certificate to dig:

- a. Preserve the archaeological site within open space of the development;
  - b. Redesign the development to accommodate preservation of all or a portion of a site containing the significant archaeological resources;
  - c. The property owner may voluntarily fund or seek funding for excavation of the resource, if agreed to by the Town.
3. If the Board finds its impossible to adequately preserve the significant archaeological resource using the standards and procedures in (c)2., above, and the proposed development plan would adversely affect any significant archaeological resources found on the site, the Board may delay issuance of a certificate to dig for up to eight weeks after the submittal of a completed application so that either:
- a. Appropriate archaeological excavation may be conducted to properly extract and interpret the significant archaeological resources found on the site; or
  - b. The Town may approach any recognized historic preservation agency to seek alternate solutions; or
  - c. A buyer may be found to purchase the site for either site preservation or in order to allow detailed excavation, analysis and interpretation of the site.
4. The Department shall charge a fee covering the direct and indirect costs associated with reviewing an application for a certificate to dig, 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 Town Council.

- (6) *Appeals.* An applicant may appeal a final decision of the Board to the Town Council within 30 days of the rendition of the decision of the Board by filing a notice of appeal with the Department. An applicant may appeal a final decision of the Town Council by filing a petition for writ of certiorari in circuit court of the Fifteenth Judicial Circuit in and for Palm Beach County, Florida within the time prescribed by the Florida Rules of Appellate Procedure.

#### **Sec. 27-1675.12. Incentives and conservation easements.**

All properties designated as historic sites or as contributing properties within an historic district shall be eligible, upon application by the owner(s), for any available financial assistance set aside for historic preservation by the Town, County, or the State contingent on the availability of funds and the scope of the project as described in the application.

The Town shall encourage owners to consider granting, selling, or leasing conservation easements, pursuant to F.S. ch. 704 and common law. The Town, at its discretion, may acquire interests in conservation easements and their concurrent rights in order to protect, enhance and perpetuate properties of historical, archaeological, aesthetic and architectural merit for the benefit of the health, prosperity, economic and general welfare of its citizens. Pursuant to F.S. ch. 163, the Town may provide an owner of property within the municipal limits of the Town with transferable development rights.

#### **Sec. 27-1675.13. Enforcement and penalties.**

- (a) The Town may enforce any of the provisions of this division either criminally or civilly pursuant to general law.

- (b) Where the Town determines that any improvements to 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 Town may require correction of such deficiencies.
- (c) The knowing, willful, or negligent attempt by a property owner to create conditions that invite demolition of a designated historic site shall constitute a violation punishable by civil or criminal penalties including a fine of up to \$500.00 per day for each day the violation continues and including a requirement that necessary work to remove the health and safety hazard, or conditions caused by neglect since the time of designation must be conducted.

**Sec. 27-1675.14. Town archive of historically significant artifacts.**

- (1) The Town shall locate, identify, collect, record, catalogue, document and preserve historical material and data including books, pamphlets, maps, charts, manuscripts, family histories, census records, real and personal property, papers, photographs, articles, memorabilia, artifacts and other objects or material illustrative of and relating to the history, prehistory, architecture and culture of the Town.
- (2) The Town shall procure from appropriate persons written and oral narratives of their experiences relative to the history of the Town and preserve the same.
- (3) The Town shall make available to other government bodies and to the public at large for study and reference purposes all collected materials, data and objects. Restrictions may be placed on the availability of certain valuable, fragile or sensitive items, and information when such restrictions are in the public interest.