

**ORDINANCE NO. 200 - \_\_\_\_\_**

AN ORDINANCE OF \_\_\_\_\_ COUNTY, FLORIDA  
PROVIDING FOR \_\_\_\_\_ COUNTY HISTORIC  
PRESERVATION ...

WHEREAS, the Board of County Commissioners of \_\_\_\_\_ County, Florida is the governing body of \_\_\_\_\_ County; and

WHEREAS, there are located within \_\_\_\_\_ County certain historic and prehistoric archaeological sites and historic areas, structures, buildings, improvements and appurtenances, both public and private, both individual properties and districts, which are reminders of past eras, events and persons important in local, state and national history, or that provide significant examples of past architectural styles and are unique and irreplaceable assets to the County; and

WHEREAS, these sites, areas, structures, buildings, improvements and appurtenances provide concrete evidence for this and future generations of our physical surroundings in past generations and of our cultural development and these historic resources are the tangible remains of the prehistoric and historic heritage of \_\_\_\_\_ County and the State of Florida; and

WHEREAS, the recognition, protection, enhancement, and sensitive use of such resources is in the public interest, and is essential to the health, safety, and welfare of the residents of \_\_\_\_\_ County; and

WHEREAS, \_\_\_\_\_ County has demonstrated its commitment to historic preservation by adopting a historic preservation element as part of its Comprehensive Plan; and

WHEREAS, \_\_\_\_\_ County intends to pursue Certified Local Government status in order to assume an active role in the process of nominating local properties to the National Register of Historic Places and thereby qualify for grant programs available to Certified Local

E. Stabilizing and improving property values through the revitalization of older residential and commercial neighborhoods;

F. Enhancing the County's attraction to visitors and the ensuing positive impact on the economy as a result of historic preservation activities;

G. Creating and promoting cultural and educational programs aimed at fostering a better understanding of the community's heritage;

H. Promoting the sensitive use of historic and archaeological sites, resources and districts for the education, pleasure and welfare of the people of \_\_\_\_\_ County.

I. The further purpose of this ordinance is to obtain Certified Local Government status pursuant to the "Procedures Programs" 36 C.F.R. 67 (2001) and the National Historic Preservation Act of 1966, as amended, 16 U.S.C. §470.

### **SECTION 3. SCOPE OF REGULATIONS.**

A. This ordinance governs and is applicable to all property located in unincorporated \_\_\_\_\_ County, Florida. The municipalities of Milton and Gulf Breeze are excluded from the provisions of the Ordinance except where the municipalities may undertake activities outside of their corporate limits.

B. Nothing contained in the Ordinance shall be deemed to supersede or conflict with applicable building and zoning codes, except as specifically provided in the Ordinance.

### **SECTION 4. DEFINITIONS.**

For the purposes of the Ordinance, the following terms are defined as follows:

*Aggrieved Party:* Anyone who has a legally recognizable interest which is or may be adversely affected by an action of the Historic Preservation Board.

Board or County staff to the owner(s) of a designated property, or any building, structure or site within a designated historic district allowing a proposed alteration, relocation, or the demolition of a building, structure or site. Certificates of Appropriateness are divided into the following two classes:

A. Regular Certificate of Appropriateness: A Certificate of Appropriateness issued by the County staff allowing activities which require the issuance of a building permit but which are classified as “ordinary maintenance and repair,” under the provisions of this ordinance.

B. Special Certificate of Appropriateness: A Certificate of Appropriateness issued directly by the Historic Preservation Board and required for any proposed work that will result in the alteration, demolition, relocation, reconstruction, new construction or excavation of a designated historic resource.

*Certificate to Dig:* A certificate issued by the County staff or the Historic Preservation Board, authorizing certain clearing, digging, archaeological investigation or archaeological development projects that may involve the exploration of established or suspected archaeological sites in areas of Archaeological Sensitivity Levels 1 or 2.

*Certified Local Government:* A designated local government meeting the requirements of the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470, which extends some aspects of the federal and State responsibilities for historic preservation to qualified local governments. Under the program, local governments are certified to review and make recommendation to the Florida National Register Review Board concerning nominations to the National Register of properties located within the confines of their local jurisdictions.

*Contributing Property:* Means and includes any building, structure or site which

objects united by past events or aesthetically by plan or physical development. A district may also be comprised of individual elements separated geographically but linked by association or history. To qualify as an historic district, an area may contain both contributing and noncontributing properties.

*Historic Preservation Board:* A board of citizens appointed by the \_\_\_\_\_ County Board of County Commissioners to administer the provisions of the Ordinance. For brevity, the Historic Preservation Board will be referred to as the “Board.”

*Historic Resource Data Base:* The compilation of data gathered on historical and archaeological sites in \_\_\_\_\_ County, Florida, based on the findings of a historic or archaeological survey or site inventory.

*Historic Resource:* Any prehistoric or historic district, site, building, structure, object, or other real or personal property of historical, architectural, or archaeological value. Historic resources may include, but are not limited to, monuments, memorials, Indian habitations, ceremonial sites, abandoned settlements, sunken or abandoned ships, engineering works, or other objects with intrinsic historical or archaeological value, or any part thereof, relating to the history, government, or culture of \_\_\_\_\_ County, the State of Florida, or the United States.

*National Register of Historic Places:* A federal listing maintained by the U.S. Department of Interior of buildings, sites, structures and districts that have attained a quality of significance as determined by the Historic Preservation Act of 1966 as amended, 16 U.S.C. 470, or as may be amended, renumbered or replaced, and its implementing regulation, 36 C.F.R. 60, “National Register of Historic Places,” or as may be amended, renumbered or replaced.

*Noncontributing Property:* Means and includes any building, structure or site which does

“Board,” an agency of County government in and for \_\_\_\_\_ County, Florida. The Board is vested with the power, authority and jurisdiction to designate, regulate and administer historical, cultural, archaeological and architectural resources in \_\_\_\_\_ County, Florida, as prescribed by the Ordinance, under the direct jurisdiction and control of the Board of County Commissioners. The decisions of the Board, so long as they are within the scope of its duties as set forth in the Ordinance, are governed by Section 768.28, Florida Statutes.

B. Qualifications of Board Members.

1. The Board consists of seven (7) members appointed by the Board of County Commissioners. Each member of the Board can hold office only so long as the member is a resident of \_\_\_\_\_ County, Florida. The Board of County Commissioners shall make appointments on the basis of an applicant’s civic pride, involvement in community issues, integrity, experience, and interest in the field of historic preservation. One Board member must be an architect registered to practice in Florida. The Board of County Commissioners may appoint one Board member from each of the following categories:

- a. Archaeology;
- b. Real estate, land development or finance;
- c. Law or urban planning;
- d. Engineering, building construction, or landscape architecture; and
- e. History or historic preservation.

The one remaining position will be filled without reference to the five categories. All members of the Board must comply with the financial disclosure laws of the State of Florida.

2. Members will serve overlapping terms of three years. Initially, two

the Board, unless there is no business pending before the Board. Regardless of the lack of pending business, the Board shall meet at least four times during any calendar year.

D. Powers and Duties. The Board shall have the following powers and duties:

1. To propose rules and procedures to implement the provisions of the Ordinance to the Board of County Commissioners.
2. To maintain and update the findings of the historical and archaeological surveys and validate those findings.
3. To evaluate the significance and eligibility of historic resources for designation pursuant to the Ordinance.
4. To designate eligible historic resources pursuant to the Ordinance.
5. To nominate historic resources to the National Register of Historic Places.
6. To approve, deny, or approve with conditions applications for Special Certificates of Appropriateness and Certificates to Dig applicable to historic resources designated pursuant to the Ordinance.
7. To issue Designation Certificates, place historical markers and administer other programs aimed at the proper recognition of designated historic resources.
8. To advise the Board of County Commissioners on all matters related to historic preservation policy, including use, administration and maintenance of County-owned designated sites and districts.
9. To recommend zoning and building code amendments to the Board of County Commissioners to assist in the preservation of designated historic resources or districts.
10. To review or make recommendations to the Board of County

County Commissioners as an \_\_\_\_\_ County Policy.

**SECTION 6. DESIGNATION.**

A. Initiation of the Designation Process. The designation process may be initiated by a written petition from the property owner(s) to the Board; by a majority vote of the Board; or at the request of the Board of County Commissioners. The Historic Resource Data Base, must be used to identify buildings, structures and sites potentially eligible for historic designation.

1. Designation Proposed by the Owner(s): When designation is requested by the owner(s), all the owners of record shall file a written petition for designation, accompanied by sufficient information to warrant further investigation of the property and to aid in the preparation of a designation report. The Board shall, based on the request and information presented, either direct staff to begin or assist in preparation of a designation report; accept and direct the filing of a designation report prepared by owner(s); reject a report submitted for filing or deny the designation petition. Upon the filing of a designation report, the Board may direct that staff commence the designation and notice process.

2. Designation Proposed by the Historic Preservation Board or the Board of County Commissioners: Upon the recommendation of staff, a request by a Board member, or request by the Board of County Commissioners, the Board may direct staff to prepare or assist in preparation of a designation report. Upon completion of the designation report, the Board may, by majority vote, initiate the designation process by a motion directing staff to file a designation report and begin the notification process.

B. Designation Report. Prior to the designation of any historic resource or historic district pursuant to the Ordinance, a designation report must be filed with the Board. The

features, and types of buildings, structures, or sites within the district;

c. An identification of all buildings, structures and sites within the district and the proposed classification of each as contributing, contributing with modifications, or noncontributing, with an explanation of the criteria utilized for the proposed classification;

d. A statement of the historical, cultural, architectural, archaeological, or other significance of the district as defined by the criteria for designation established by the Ordinance;

e. A statement of recommended boundaries for the district and a justification for those boundaries, along with a map showing the recommended boundaries; and

f. A statement of incentives requested, if any, and the specific guidelines which should be used in authorizing any alteration, demolition, relocation, excavation or new construction within the boundaries of the district.

C. Designation Process. The Board shall hold a timely public hearing upon every petition for designation made pursuant to the Ordinance. Any reference to “calendar days” includes Saturdays, Sundays and legal holidays. Any reference to “working days” excludes Saturdays, Sundays and legal holidays.

1. Notice to Owner(s). The Board shall notify the property owner(s) of its intent to consider a proposed designation at least twenty (20) calendar days prior to the date of the public hearing. Notice must be sent by certified mail, return receipt requested, to the record owner(s) of the property as reflected by the current ad valorem tax roll. Prior to the hearing, staff shall furnish the owner(s) with copies of the designation report and the Ordinance, as amended. Staff shall make a reasonable effort to contact the owner(s) after mailing the Notice of Intent to



must be recorded in the public records of \_\_\_\_\_ County, Florida, within twenty five calendar days of the date the Board renders its decision, unless an appeal of that decision has been filed within the time limits established by the Ordinance.

5. Suspension of Activities. Upon the filing of a designation report, no permits may be issued authorizing building, demolition, relocation or excavation on the subject property until such time as final administrative action occurs or the expiration of seventy-five calendar days from the date the designation report is filed with the Board, whichever occurs first, unless an appeal of the Board's decision is filed. If an appeal to the Board of County Commissioners is filed, as provided below, the suspension of activities shall continue in effect for an additional thirty-five calendar days from the date the Board renders its decision or until the rendering of a decision on the appeal, whichever occurs first. The property owner(s) may waive the suspension of activities deadlines set out above. Waivers shall be in the form of a notarized statement to the Board for inclusion in the Board's files. The Board shall notify all affected government agencies of the suspension of activities upon the filing of a designation report. The suspension of activities shall also expire after sixty days if no public hearing is held.

D. Criteria for Designation.

1. The Board shall have the authority to designate historic resources based upon their significance in \_\_\_\_\_ County's history, architecture, archaeology or culture or for their integrity or location, design, setting, materials, workmanship or association, or both, and because they:

a. Are associated with distinctive elements of the cultural, social, political, economic, scientific, religious, prehistoric or architectural history that have contributed

- a. Portrays the environment in an era of history characterized by one or more distinctive architectural styles; or
- b. Embodies the characteristics of an architectural style, period or method of construction; or
- c. Is a historic or outstanding work of a prominent architect, designer or landscape architect; or
- d. Contains elements of design, detail, materials, or craftsmanship which are of outstanding quality or which represented, in its time, a significant innovation, adaptation or response to the Northwest Florida environment.

4. A historic resources has archaeological significance it if meets one or more of the following criteria:

- a. There is an important historical event or person associated with the site; or
- b. The quality of the site or the data recoverable from the site is significant enough that it would provide unique or representative information on prehistoric or historical events; or
- c. This site was the locus of discrete types of activities such as, but not limited to, habitation, religious, burial, fortification; or
- d. The site was the location of historic or prehistoric activities during a particular period of time; or
- e. The site maintains a sufficient degree of environmental integrity to provide useful archaeological data. Integrity is defined as:

with historic events.

e. A property primarily commemorative in nature if design, age, tradition or symbolic value have invested it ~~with its own historical significance.~~

f. A building, structure, site or district achieving significance less than fifty years from the date it is proposed for designation if it is of exceptional historical importance.

## **SECTION 7. CERTIFICATES OF APPROPRIATENESS.**

No building, moving or demolition permit can be issued for a designated historic resource or a building, structure or site which is a part of a designated historic or archaeological district, until a Certificate of Appropriateness has been issued. Except for applications requesting Certificates of Appropriateness for non-contributing properties, the criteria for issuance of a Certificate of Appropriateness (Regular or Special) must be the U.S. Secretary of the Interior's "Standards for Rehabilitation," 36 C.F.R. 67, or as may be amended, renumbered or replaced, which are hereby adopted by reference as though set forth fully in the Ordinance. Copies of the Secretary of the Interior's Standards, and the implementing "Guidelines for Rehabilitating Historic Buildings," must be kept on file by the Building Official and the Director of Planning and Zoning. Applications for Certificates of Appropriateness for non-contributing properties must be reviewed using the specific criteria set out in the resolution designating the historic district where the property is located.

A. Regular Certificate of Appropriateness. A Regular Certificate of Appropriateness is required for work requiring a building permit and classified as "ordinary maintenance and repair" by the Ordinance, or for any work that will result, to the satisfaction of the County staff,

by the Board to fully describe the proposed appearance, color, texture, materials, or design of the building(s) or structure(s) and any outbuilding, wall, courtyard, fence, landscape feature, paving, signage or exterior lighting. The applicant shall provide adequate information to enable the Board to visualize the effect of the proposed action on the historic resource and on adjacent buildings and streetscapes within a historic district. The Board shall hold a public hearing upon an application for a Special Certificate of Appropriateness affecting designated historic resources or districts. Notice of the public hearing must be given to the property owner(s) by certified mail, return receipt requested, and to other interested parties by an advertisement in a newspaper of general circulation at least five (5) calendar days, but not sooner than twenty (20) calendar days, prior to the date of hearing. The Board shall meet and act upon an application for a Special Certificate of Appropriateness on or before a date seventy (70) calendar days from the date the application and materials adequately describing the proposed action is received. The Board shall approve, deny or approve this Special Certificate of Appropriateness with conditions (subject to the acceptance of the conditions by the applicant), or suspend action on the application for a period not to exceed thirty-five (35) calendar days in order to seek technical advice from outside sources or to meet further with the applicant to revise or modify the application. Failure of the Board to act upon an application on or before a date seventy (70) calendar days (if no additional information is required) or one-hundred five (105) calendar days (if additional information is required by the Board) from the date the application was received shall result in the immediate issuance of the Special Certificate of Appropriateness applied for, without further action by the Board. All decisions of the Board must be in writing and must include findings of fact. Evidence of approval of the application is by the Special Certificate of Appropriateness issued by

Refusal by the Board to grant a Special Certificate of Appropriateness must be by a written order detailing the public interest which is sought to be preserved. The Board may grant a Special Certificate of Appropriateness for Demolition which may provide for a delayed effective date of six months to allow the Board to seek possible alternatives to demolition. During the demolition delay period, the Board may take such steps as it deems necessary to preserve the structure concerned, in accordance with the purpose of the Ordinance. Such steps may include, but are not limited to, consultation with civic groups, public agencies and interested citizens, recommendations for acquisitions of property by public or private bodies or agencies, and exploration of the possibility of moving the building or other feature.

4. The Board shall consider the following criteria in evaluating applications for Certificates of Appropriateness for Demolition of designated historic resources or contributing properties within a designated historic district:

- a. Is the building or structure of such interest or quality that it would reasonably meet national, State or local criteria for additional designation as historic or architectural landmark?
- b. Is the building or structure of such design, craftsmanship, or material that it could be reproduced only with great difficulty, expense, or both?
- c. is the building or structure one of the last remaining examples of its kind in the neighborhood, the county or the region?
- d. Does the building or structure contribute significantly to the historic character of a designated historic district?
- e. Would retention of the building or structure promote the general

- a. For all property:
  - i. The amount paid for the property, the date of purchase and the party from whom purchased;
  - ii. The assessed value of the land and improvements thereon according to the two most recent property tax assessments;
  - iii. The amount of real estate taxes for the previous two years;
  - iv. The annual debt service, if any, for the previous two years;
  - v. All appraisals obtained within the previous two years by the owner or applicant in connection with the purchase, financing or ownership of the property;
  - vi. Any listings of the property for sale or lease, the price asked and offers received, if any; and
  - vii. Any profitable adaptive uses for the property which have been considered by the owner(s).
- b. In addition to the items set forth above, the owner(s) may present for income producing property:
  - i. The annual gross income from the property for the previous two years;
  - ii. Itemized operating and maintenance expenses for the previous two years; and
  - iii. the annual cash flow, if any, for the previous two years.

D. Moving Permits. The Board shall consider the following criteria for applications for Special Certificates of Appropriateness for the moving of all historic resources and

all applications and the issuance of all Certificates of Appropriateness for archaeological sites and districts designated pursuant to the Ordinance.

b. In reviewing the application for a Special Certificate of Appropriateness for a designated archaeological site, the Board may also require any or all of the following:

i. Scientific excavation and evaluation of the site by an archaeologist at the owner(s) expense.

ii. An archaeological survey, conducted by an archaeologist as defined in the Ordinance, containing an analysis of the impact of the proposed activity on the archaeological site.

iii. Proposal for mitigation measures.

iv. Protection or preservation of all or part of the designated archaeological site for green space, in exchange for incentives as provided in Section 9 of the Ordinance.

c. To knowingly disturb human burials and human skeletal remains is a third degree felony in the State of Florida, pursuant to Section 872.05, Florida Statutes.

Procedures for dealing with the accidental discovery of unmarked human burials are outlined in Section 872.05, Florida Statutes. If unmarked human burials are suspected or known in an area under consideration for any Certificate of Appropriateness, the area must be surveyed by an archaeologist as defined by the statute to locate the remains, and the procedures for dealing with human burials and human skeletal remains are governed by Section 872.05.

3. Certificate to Dig. The survey resulting in a site inventory will be used to

The applicant can appeal any conditions attached to a Certificate to Dig by applying for a Special Certificate of Appropriateness within thirty calendar days of the date the Conditional Certificate to Dig was issued. ~~The Board~~ shall convene no later than fifty (50) calendar days after the date a completed application for a Special Certificate of Appropriateness is filed with the staff. Approved Certificates to Dig must contain an effective date not to exceed sixty calendar days at which time the proposed activity may begin, unless the archaeological excavation uncovers evidence of such significance that it warrants designation of the archaeological site as a historic resource pursuant to Section 5 of the Ordinance. All work performed pursuant to the issuance of a Certificate to Dig must conform to the requirements of the Certificate. It is the duty of the appropriate County agencies and the staff of the Board to inspect work for compliance with the Certificate. In the event of noncompliance the appropriate County staff has the power to issue a stop work order and all work must stop.

**SECTION 8. MAINTENANCE AND MINOR REPAIR PROVISIONS**

A. Exemption for Work not Requiring a Building Permit.

Nothing in the Ordinance can be construed to prevent or discourage the ordinary maintenance and repair of the exterior elements of any historic resource or any property within a designated historic district when the maintenance and repair does not involve a change of design, appearance (other than color), or material, and which does not require a building permit.

B. Enforcement of Maintenance and Repair Provisions.

When the Board determines that the exterior of a designated historic resource, or a contributing property within a designated historic district, is endangered by lack of ordinary maintenance and repair, or that other improvements in visual proximity of a designated historic



carried out. The owner(s) of a building or structure damaged by fire or natural calamity will be permitted to immediately stabilize the building or structure and to later rehabilitate it under the procedures required by the Ordinance. The owner(s) may request a special meeting of the Board to consider an application for a Certificate of Appropriateness to provide for permanent repairs.

E. Demolition by Neglect.

In the event that the Board's staff or the Building Official inform the Board that a designated historic resource or contributing property within a historic district is being demolished by neglect, as defined pursuant to the Ordinance, the Board shall notify the owner(s) of record by certified mail of its preliminary findings and intent to hold a public hearing no later than thirty-five (35) calendar days from the date the notice is sent to determine evidence of neglect. The owner has until the time of the public hearing to make necessary repairs to rectify the evidence of neglect as identified in the certified notice. Upon failure by the owner(s) to abate the structural, health or safety hazards identified in the initial notice within thirty-five (35) calendar days, the Board shall hold a public hearing to consider recommending to the Building Official that the owner(s) be issued a citation for code violation. The owner(s) has the right to rebut the Board's preliminary findings at the public hearing. If the Board finds that the building or structure is being demolished by neglect pursuant to the Ordinance, the Board may recommend to the Building Official that the owner(s) be issued a citation for code violations and that penalties be instituted pursuant to the Ordinance.

**SECTION 9. APPEALS.**

Use a Special Master? Chapter \_\_\_ of the \_\_\_\_\_ County Code of Ordinances?

**SECTION 10. INCENTIVES.**

or statutes and further provided that:

- a. The restored building will be no more hazardous based on considerations of life, fire and sanitation safety than it was in its original condition.
- b. Plans and specifications are sealed by a Florida registered architect or engineer, if required by the Building Official.
- c. The Building Official has required the minimum necessary corrections to be made before use and occupancy which will be in the public interest of health, safety and welfare.

D. Land Development Code.

The Director of the Division of Planning and Zoning may, by written administrative decision, approve any relief request for designated historic resources or contributing properties to a designated historic district, for matters involving setbacks, lot width, depth, area requirements, land development regulations, height limitations, open space requirements, parking requirements, and other similar zoning relief not related to a change in use of the property in question.

Before granting a relief, the Zoning Director must find:

- a. That the variance will be in harmony with the general appearance and character of the community;
- b. That the relief will not be injurious to the area involved or otherwise detrimental to the public health, safety or welfare; and
- c. That the proposed work is designed and arranged on the side in a manner that minimizes aural and visual impact on the adjacent properties while affording the

Chapter \_\_\_ of the \_\_\_\_\_ County Code of Ordinances, the County Code Enforcement System. Failure by a registrant to comply with the Ordinance will result in fines, and liens being levied against the property owner(s) pursuant to Chapter \_\_\_ of the \_\_\_\_\_ County Code of Ordinances and Section 162.09 of the Florida Statutes, as amended.

B. In determining which remedy or remedies are appropriate, the Special Master shall take into consideration the nature of the violation, if the person or persons bearing the impact of the violation, the nature of the remedy required in order to prevent further violations, and such other matters as a Special Master determines are appropriate to the public interest.

C. In addition to any other remedies available in the Ordinance, the County Attorney is authorized to institute a civil action in State or federal court of competent jurisdiction to seek injunctive relief to enforce compliance with the Ordinance, to protect the health, safety or welfare of the public, when irreversible or irreparable harm may result, and immediate discontinuation of the activity is necessary to protect the public interest.

### **SECTION 13. SEVERABILITY**

If any section, sentence, clause or phrase of the Ordinance is held to be invalid or unconstitutional by any Court of competent jurisdiction, the holding will in no way affect the validity of the remaining portions of the Ordinance.

### **SECTION 14. CONFLICT**

In the event that any provision in the Ordinance is found to be contrary to any other existing \_\_\_\_\_ County ordinance, code, rule or regulation covering the same subject matter, the Ordinance supersedes all other ordinances, codes, rules or regulations to the extent that there is a conflict.