

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO PARKS AND RECREATION; AMENDING ORDINANCE NO. 09-04 TO MODIFY PARK RENTAL FEES RELATING TO THE EDWARD AND ARLENE FELLER COMMUNITY ROOM AT LUDOVICI PARK; PROVIDING FOR AN ADMINISTRATIVE WAIVER OF RENTAL FEES FOR ALL NONPROFITS OR COMMUNITY GROUPS FOR USE OF THE EDWARD AND ARLENE FELLER COMMUNITY ROOM; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. [Sponsored by Council Person Patrick Fiore].

WHEREAS, the Village adopted and established fees, permit conditions, requirements and other guidelines for rental activities at all Park facilities, including the Edward and Arlene Feller Community Room and Amphitheater at Ludovici Park, under Ordinance 09-04 relating to "Park Fees"; and,

WHEREAS, the existing fees and conditions are deemed appropriate and comparable to similar neighboring facilities; and,

WHEREAS, several community groups and nonprofit organizations do not have a regular location to meet and desire to use the Edward and Arlene Feller Community Room at Ludovici Park; and,

WHEREAS, the Edward and Arlene Feller Community Room, like all Village Park areas, requires a fee for the use of said facilities; and,

WHEREAS, certain nonprofit organizations and community groups do not have the funding available to rent facilities; and,

WHEREAS, the Edward and Arlene Feller Community Room, since the opening of Village Hall, is not utilized as frequently as in the past, and expanded use of the asset may benefit the community; and,

WHEREAS, the Village desires to provide a waiver process for nonprofit organizations and community groups as to the rental fees associated with the use of the Edward and Arlene Feller Community Room.

BE IT ENACTED BY THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:

Section 1. Ordinance 09-04, at Section 2, entitled "Park Fees" shall be amended as follows:

1 * * *

2 **Park Fees**

3 * * *

4 **Edward and Arlene Feller Community Room and Amphitheater at Ludovici Park Fees**

5 **Community Room:**

6
7 Accommodates up to 50 people; includes use of light-food/beverage prep area. All Community
8 Room rentals are subject to prior written approval from Village Manager.

9
10 Weekdays 8:00 am to 5:00 pm: \$75.00 per hour, with a minimum three (3) hour rental requirement;
11 Daily rate: 8:00 a.m. to 5:00 p.m. = \$375.00

12
13 Nights 5:00-11:00 pm, Weekends/Holidays 8:00 am to 11:00 pm: \$100.00 per hour, with a minimum
14 three (3) hour rental; Daily rate weekends/holidays = \$500.00

15 *** AV equipment (set-up/break down by Village personnel only!)**

16 ***\$500.00 refundable damage/clean-up deposit for any of the above rentals**

17 * * *

18 **Administrative Waiver of Rental Fee:**

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23 1. The Village Manager is authorized to provide an administrative waiver of user rental fees
24 for the Edward and Arlene Feller Community Room for nonprofit charitable organizations
25 (registered with IRS) and community groups. A request for waiver of the rental fees must issue at
26 least ten (10) days prior to the requested day of use.

27
28
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30 2. The Village Manager shall review the request for administrative waiver of rental fees for use
31 of the Edward and Arlene Feller Community room and determine if the request by the nonprofit
32 organization or community group is accompanied by appropriate documentation to support the
33 request. The administrative waiver applies solely to the rental fee, the refundable damage/clean-up
34 deposit amount shall be required prior to use of the facility.

35
36 3. Use of the Edward and Arlene Feller Community Room is limited to once per week by
37 nonprofit organizations and community groups who are seeking use through administrative waiver
38 of rental fees. Use of the facility may be more frequent; however, the nonprofit organization or
39 community group will be required to pay the full rental amount if the room is required more than
40 once per week.

41
42 4. Should the nonprofit organization or community group requesting and/or receiving an
43 administrative waiver of the rental fees conduct a fund raising activity in the Edward and Arlene
44 Feller Community Room, the organization or group will be required to pay the full rental amount.

1 5. Village use of the Edward and Arlene Feller Community room has priority over any
2 nonprofit organization or community group, and the organization or group will be required to move
3 their meeting to another time or date to accommodate the Village's use of the room.

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5 6. Any community or nonprofit group utilizing an administrative waiver will have to complete
6 the Edward and Arlene Feller Community room facility use agreement.

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8 * * *

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10 **Section 2.** All ordinances or parts of ordinances in conflict with the provisions of this
11 ordinance are repealed. The fee schedule shall be adopted in accordance with the Florida Statutes.

12
13 **Section 3.** If any section, clause, sentence, or phrase of this ordinance is for any reason held
14 invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the
15 validity of the remaining portions of this ordinance.

16
17 **Section 4.** This ordinance shall take effect immediately upon enactment.

18
19 PASSED AND ENACTED this [] day of _____, 2012.

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23 Attest: _____
24 Meighan Alexander
25 Village Clerk

Shelley Stanczyk
Mayor

26
27 APPROVED AS TO FORM:

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29 _____
30 Eve Boutsis
31 Village Attorney

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34 FINAL VOTE AT ADOPTION:

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36 Council Member Patrick Fiore _____
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38 Council Member Howard Tendrich _____
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40 Council Member Joan Lindsay _____
41
42 Vice-Mayor Brian W. Pariser _____
43
44 Mayor Shelley Stanczyk _____



To: Honorable Mayor and Village Council

Date: April 30, 2012

From: Ron E. Williams, Village Manager

RE: HPB Updates – First Reading

**AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL,
OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AMENDING
DIVISION 30-150, ENTITLED HISTORIC PRESERVATION, OF
THE VILLAGE'S LAND DEVELOPMENT CODE, TO BE
CONSISTENT WITH SECTION 16A, ENTITLED "HISTORIC
PRESERVATION," OF THE MIAMI-DADE CODE OF
ORDINANCES, WITH REGARDS TO AUTHORITY,
RESPONSIBILITIES AND CRITERIA; PROVIDING FOR A
LEGISLATIVE REVIEW CLAUSE; PROVIDING FOR
ORDINANCES IN CONFLICT; CODIFICATION;
SEVERABILITY; AND AN EFFECTIVE DATE**

BACKGROUND:

The proposed ordinance seeks to update Division 30-150 entitled: "Historic Preservation," (HP) in order to align the advisory role of the Historic Preservation Board and Village Council consistent with Miami-Dade County Ordinance 16A; to clarify certain provisions including updated definitions; to amend the appointment and term of Board Members; and to provide for a legislative review clause.

On June 18, 2007, the Village of Palmetto Bay adopted a Historic Preservation Code (Ord. No. 07-28) to facilitate the "protection, enhancement and perpetuation of properties of historical, cultural, archeological, paleontological, aesthetic and architectural merit[.]" (§30-150.1). The Ordinance created the Historic Preservation Board to serve as the advisory body to the Village Council, who in turn were assigned authority to bestow historic designation on property(ies) and to authorize development certificates permitting the alteration or demolition of designated properties and structures.

Miami-Dade County, through its Constitutional Home Rule Authority requires all governments which administer a historic preservation program to conform to the County Code. Therefore, pursuant to Section 16A.3.1(2)(c), of the Miami-Dade County Code of Ordinances, for the Village to have properly assigned designation and certification authority to itself (i.e. the Council), the Ordinance would have had to of been adopted by 2003. Due to this Rule, Miami-Dade County is the final decision maker. If it is the desire for the Council to continue to participate in this process, albeit in a limited advisory capacity, the

ordinance, which was adopted in 2007, must be amended to reflect all final designation and certification authority to be with Miami-Dade County. In order to undertake this modification to be consistent with the County's Home Rule Authority, other changes to the ordinance are required including: an update of the definitions, and striking of the appeals clause as the Council would no longer act as the final decision making body as to historic designation.

In light of the foregoing, it is now incumbent upon the Village to decide what its continued role is to be in the designation and certification processes. To date, and in fulfillment of Policy 3.1.8 of the Village's Comprehensive Plan, a survey was completed identifying potential structures and buildings within the Village that may be eligible for historic designation. That survey included twenty-five (25) homes and four (4) segments of oolitic rock walls adjacent to Old Cutler Road. Modification of the Ordinance as proposed would permit the continued participation of the Village in an advisory capacity to the County, in the official designation of the above properties. It is important to note, however, all historic designation applications must be accompanied by a designation report, the cost of which is to be borne by the Village or the applicant, given the County's Historic Preservation Office is no longer adequately staffed to perform that aspect of the work. Thus, should the Village decide it is in its interest to pursue those designations and participate in the process, in a duplicate advisory capacity (Historic preservation Board review, then final advisory recommendation by the Village Council), the Village Council would be required to adopt the proposed changes to 30-150. The Village Council would also need to provide appropriate funding to complete the necessary designation reports.

Should the Village Council choose to continue its participation in the designation process, and to include the Historic Preservation Board in that process, it is suggested, as provided in the proposed Ordinance, that the terms of the Board members be extended from one (1) year to two (2) years, and for the selection/appointment of Board Members be by the Village Council, as a whole. The change in tenure of Board Members is recommended due to the technical nature of the Board's review and the time it may likely take to complete consideration of the properties and structures identified in the 2008 survey.

The proposed ordinance provides for a Legislative Review clause, which will permit the Historic Preservation Board to sunset on October 1, 2014, unless the Village Council reauthorizes the Ordinance thus, allowing for the Board to complete their principal task of reviewing the properties identified in the 2008 survey. It is worth noting that, notwithstanding the oolitic wall segments, the twenty-five (25) identified properties are all privately owned, and the individual property owners may not be interested in having their private homes historically designated.

ANALYSIS:

The proposed ordinance was reviewed for consistency with the criteria established in Section 30-30(b). The Background section provided above shall be considered supplemental

information to this analysis and thusly shall be incorporated into the individual criteria therein. The following is a review of those criteria:

Criteria (1): Whether the proposal is consistent with the Comprehensive Plan, including the adopted infrastructure minimum levels of service standards and the Village's concurrency Management Program.

Analysis: The proposed amendment is consistent with Comprehensive Plan as per the following Objectives and Policies:

Objective 1.5 Historic and Environmental Resources and Natural Systems. Protect and enhance, to the maximum extent possible, all environmentally important natural systems and historical resources existing within the Village.

Policy 1.5.2. Encourage the protection of all identified, and yet unidentified, historical and archeological structures and sites within the Village (see Housing Element 3.1.8) through appropriate land development regulations, comprehensive review of development applications, public acquisition decisions, and historic designations. To this end, the Village shall pursue historic designation and/or rehabilitation opportunities for the property at 17301 Old Cutler Road to preserve public access to the site and the waterfront.

Policy 1.5.3. By January 2006, request to the appropriate state and county agencies and evaluation of the unique low rock walls along SW 152 Street for possible designation as a unique and historic transportation feature within the Village, and if found appropriate, work with these agencies to implement recommended protective measures.

Policy 3.1.8. By July 2007, survey existing housing stock for historically significant structures and determine whether or not the Village should implement a historic preservation program.

Objective 6.10 Archeological and Historical Resources. Ensure further land development activities incorporate appropriate measures to prevent damage to archaeologically and historically significant resources in the Village of Palmetto Bay to the maximum extent possible.

The ordinance as proposed provides a vehicle to protect and preserve properties of interest to the Village while providing for an advisory role in Miami Dade County's historic designation authority.

Finding: Consistent

Criteria (2): Whether the proposal is in conformance with all applicable requirements of Chapter 30.

Analysis: The proposed amendment brings the Historic Preservation code into compliance with Miami-Dade County, as required by the Miami-Dade County Home Rule Power authority. The ordinance provides for the continued advisory role of the Historic Preservation Board to the Village Council, who in turn forwards a recommendation to the County with regard to historic designations and issuance of development certificates.

Findings: Consistent

Criteria (3) Whether, and the extent to which, land use and development conditions have changed since the effective date of the existing regulations, and whether the changes support or work against the proposed change in land use policy.

Analysis: The proposed amendment brings the Village's Historic Preservation Code into compliance with Section 16A of Miami-Dade County's Code of Ordinances, as required by the County's Home Rule Authority.

Findings: Consistent

Criteria (4) Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and locations of uses involved, the impact on the adjacent or neighboring properties, consistency with existing development, as well as compatibility with existing and proposed land uses.

Analysis: The proposed ordinance does not change the list of permitted uses within the Village's zoning districts.

Finding: Consistent

Criteria (5) Whether, and the extent to which, the proposal would result in demands on transportation systems, public facilities and service; would exceed the capacity of the facilities and services, existing or programmed, including: transportation, water and wastewater services, solid waste disposal, drainage,

recreation, education, emergency services, and similar necessary facilities and services.

Analysis: The proposed ordinance does not change the list of permitted uses within the Village's zoning districts thus it does not affect the capacity of existing facilities or services as described above.

Finding: Consistent

Criteria (6) Whether, and to the extent to which, the proposal would result in adverse impacts on the natural environment, including consideration of wetland protection, preservation of groundwater aquifer wildlife habitats, and vegetative communities.

Analysis: The proposed ordinance does not change the list of permitted uses within the Village's zoning districts and it does not affect the natural environment as described above.

Finding: Consistent

Criteria (7) Whether, and to the extent to which, the proposal would adversely affect the property values in the affected area, or adversely affect the general welfare.

Analysis: It is not clear whether the historic designation will necessary affect the value of a property be it positively or negatively as many factors go into determining the value of land and their structures thereupon.

Findings: Consistent

Criteria (8) Whether the proposal would result in an orderly and compatible land use pattern. Any positive and negative effects on land use patter shall be identified.

Analysis: The proposed ordinance does not change the list of permitted uses within the Village's zoning districts and it does not affect the natural environment as described above.

Findings: Consistent

Criteria (9) Whether the proposal would be in conflict with the public interest, and whether it is in harmony with the purpose of Chapter 30.

Analysis: The proposed amendment brings the code into compliance with Section 16A of the Miami-Dade County Code of Ordinances.

Findings: Consistent

Criteria (10) Other matters which the local planning agency or Village Council in its legislative discretion may deem appropriate.

Finding: As determined by the Village Council.

FISCAL/BUDGETARY IMPACT:

The fiscal impact on the Village should it seek to pursue designation of the 25 homes and the four (4) oolitic rock wall segments, will vary based on how many of the surveyed properties/structures are pursued for consideration. Preliminary estimate for the cost to complete a designation report is \$3,500. This cost, plus the cost of any mailer, will be borne by the Village for those properties where it is the applicant.

RECOMMENDATION:

Approval.

Darby P. Delsalle, AICP, Director
Planning and Zoning Department

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND VILLAGE COUNCIL, OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AMENDING DIVISION 30-150, ENTITLED "HISTORIC PRESERVATION," OF THE VILLAGE'S LAND DEVELOPMENT CODE, TO BE CONSISTENT WITH SECTION 16A, ENTITLED "HISTORIC PRESERVATION," OF THE MIAMI-DADE CODE OF ORDINANCES, WITH REGARDS TO AUTHORITY, RESPONSIBILITIES AND CRITERIA; PROVIDING FOR A LEGISLATIVE REVIEW CLAUSE; PROVIDING FOR ORDINANCES IN CONFLICT; CODIFICATION SEVERABILITY; AND AN EFFECTIVE DATE.

WHEREAS, on June 18, 2007, the Village of Palmetto Bay adopted Division 30-150, entitled Historic Preservation (Ord. No. 07-28), with the intent to preserve and record the history of the development of the Village; and,

WHEREAS, the Ordinance created the Village's Historic Preservation Board, granting it the authority to approve various development certificates for historically designated properties and to recommend to the Mayor and Village Council, buildings and structures for historic designation; and,

WHEREAS, Miami-Dade County, under its Home Rule Authority, has a county-wide Historic Preservation Ordinance at Section 16A of the Miami-Dade County Code of Ordinances, which is applicable to the entire county and all municipalities, thus preempting the authorities granted under the Village's Code; and,

WHEREAS, though Village is permitted to create its own historic code, it may only serves in an advisory capacity to the appropriate County board/agency; and,

WHEREAS, pursuant to Object 6.10 of the Village's Comprehensive Plan, a survey was completed identifying potential structures and buildings within the Village that may be eligible for historic designation; and,

WHEREAS, it is the Village's desire to fulfill that Objective and consider those structures and buildings for historic designation, but to do so the existing Ordinance must be amended to properly assign such final authority to the County; and,

WHEREAS, once the work of the Historic Preservation Board and Village Council completes that review, that this Ordinance may be subject to additional legislative review or be allowed to sunset effective October 1, 2014.

NOW THEREFORE, IT IS HEREBY ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:

Section 1. The above whereas clauses are incorporated by reference herein.

Section 2. Chapter 30, of the Village's Land Development Code, at Division 30-150, Section, entitled "Historic Preservation", is amended to read as follows:

Chapter 30
ZONING

* * *

Article II. Village of Palmetto Bay, Florida-Land Development Code

* * *

DIVISION 30-150. - HISTORIC PRESERVATION

30-150.1. - Declaration of Legislative Intent.

It is hereby declared as a matter of public policy that the protection, enhancement and perpetuation of properties of historical, cultural, archeological, paleontological, aesthetic and architectural merit are in the interests of the health, prosperity and welfare of the people of Village of Palmetto Bay. Therefore, this Division is intended to:

(a) Effect and accomplish the protection, enhancement and perpetuation of buildings, structures, improvements, landscape features, paleontological and archeological resources of sites and districts which represent distinctive elements of the county's cultural, social, economic, political, scientific, religious, prehistoric and architectural history;

(b) Safeguard the Village and Miami-Dade County's historical, cultural, archeological, paleontological and architectural heritage, as embodied and reflected in such individual sites, districts and archeological zones;

(c) Foster civic pride in the accomplishments of the past;

(d) Protect and enhance the Village's attraction to visitors and the support and stimulus to the economy thereby provided; and

(e) Promote the use of individual sites and districts for the education, pleasure and welfare of the people of Village of Palmetto Bay.

30-150.2. - Definitions.

For the purpose of this Division, the terms below shall be defined as follows:

Archeological or paleontological zone. An area designated pursuant to Section 16A of Miami-Dade County Code of Ordinances, which is likely to yield information on the paleontology, history and prehistory of Village of Palmetto Bay and Miami-Dade County based on prehistoric settlement patterns in Miami-Dade County as determined by the results of the Miami-Dade County historic survey. These zones will tend to conform to natural physiographic features which were the focal points for prehistoric and historic activities and paleontology.

Certificate of appropriateness. A certificate issued by Miami-Dade County permitting certain alterations or improvements to a designated individual site or property in a designated district.

Regular certificate of appropriateness. A regular certificate of appropriateness shall be issued Miami-Dade County for all designated properties, based on the guidelines for preservation pursuant to Section 16A of the Miami-Dade Code of Ordinances.

Certificate to dig. A certificate that gives permission for certain digging projects that may involve the discovery of as yet unknown or known archeological or paleontological sites in an archeological or paleontological zone. This certificate is issued pursuant to Section 16A of the Miami-Dade Code of Ordinances.

Certificate of recognition. A certificate issued by the board recognizing properties designated pursuant to this Division.

Demolition. The complete constructive removal of a building on any site.

Designated property. A property which has received historic preservation designation by the National Historic Register, State of Florida, or Miami-Dade County.

Districts. A collection of archeological or paleontological sites, buildings, structures, landscape features or other improvements that are concentrated in the same area and have been designated as a district pursuant to Section 16A of the Miami-Dade Code of Ordinances.

Exterior. All outside surfaces of a building or structure.

Guidelines for designation. Criteria pursuant to Section 16A of the Miami-Dade Code of Ordinances to be used by staff in determining the validity of applications for a regular certificate of appropriateness and any certificate to dig and to establish a set of guidelines for the preservation of buildings in South Florida.

Historic preservation board. An advisory board as created by this Division as described in section 30-150.3

Historic survey. A comprehensive survey compiled by the Historic Preservation Division of the Miami-Dade County Office of Community and Economic Development involving the identification, research and documentation of buildings, sites and structures of any historical, cultural, archeological, paleontological or architectural importance in Miami-Dade County, Florida.

Individual site. An archeological site, a paleontological site, building, structure, place or other improvement that has been designated as an individual site pursuant to this Division. Pursuant to Section 16A of the Miami-Dade Code of Ordinances, interior spaces may be regulated only where a building or structure is a designated individual site and where its interiors are specifically designated.

National Register of Historic Places. A federal listing maintained by the U.S. Department of the 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.

Ordinary repairs or maintenance. Work done to prevent deterioration of a building or structure or decay of or damage to a building or structure or any part thereof by restoring the building or structure as nearly as practicable to its condition prior to such deterioration, decay or damage.

Owner of a designated property. As reflected on the current Miami-Dade County tax rolls or current title holder.

Undue economic hardship. Failure to issue a certificate would place an onerous and excessive financial burden upon the owner that would amount to the taking of the owner's property without just compensation.

Landscape feature. Any improvement or vegetation including, but not limited to outbuildings, walls, courtyards, fences, shrubbery, trees, sidewalks, planters, plantings, gates, street furniture and exterior lighting.

Sec. 30-150.3. - Creation and Membership of Advisory Board.

There is hereby created a Historic Preservation Board, as an advisory board for the Village.

(a) The Historic Preservation Board shall consist of five members, to be confirmed by the Mayor and Village Council.

(b) The board shall be comprised of architects, planners, archeologists, historians, art historians, historic preservationist. One member of the Advisory Board by virtue of the civic involvement or concern for historic preservation may be appointed to the Advisory Board.

(c) It is intended that members of the Historic Preservation Board established by this section shall be persons of knowledge, experience, mature judgment, and background, having ability and desire to act in the public interest and representing, insofar as may be possible, the various special professional training, experience, and interest required to make informed and equitable decisions concerning conservation and protection of the physical environment.

(d) The term of office of membership shall be a term of two-years for each member. Members shall be eligible for reappointment. Terms shall not automatically renew. Each Advisory Board position shall expire at the end of the two-year term and shall remain vacant until reappointment or selection of new Advisory Board member occurs.

(e) Any vacancy occurring on the Advisory Board shall be filled by the Mayor and Village Council for the remainder of the unexpired term.

(f) Special advisors may be appointed by the Mayor and Village Council upon recommendation by the Historic Preservation Board.

30-150.4. - Powers and Duties of Board.

The Village recognizes through the County's Home rule authority that the designation of any property, creation of any district or listing, and the issuance of the any certificate is preempted by Miami-Dade County. The Village's Historic Preservation Board shall serve as a supplementary Advisory Board which has the authority to forward recommendations to the Mayor and Village Council with whom shall have the authority to issue recommendations to the appropriate board/agency of Miami-Dade County. The Historic Preservation Board shall have the following enumerated powers and duties:

(a) Recommend designation of individual sites, districts and archeological and paleontological zones to the Mayor and Village Council.

(b) Recommend to the Mayor and Village Council properties for designation as historic landmarks and historic landmark districts.

(d) Recommend approval or denial of certificates of appropriateness pursuant to this Division and the requirements of Miami-Dade County.

(e) Recommend to the Mayor and Village Council whether a historic landmark destroyed by fire or other natural disaster should be reconstructed. If so, the Advisory Board may recommend to the Village that an exception to the zoning code be granted.

(f) Make recommendations to the Mayor and Village Council concerning the transfer of development rights on sites designated under this Division.

(g) Increase public awareness of the value of historic conservation by developing and participating in public information programs.

(h) Make recommendations to the Mayor and Village Council concerning the utilization of grants from federal and state agencies or private groups and individuals, and utilization of Village funds to promote the preservation of archaeologically, historically and aesthetically significant sites, districts and zones.

(i) Approve historic markers and plaques and issue recognition to designated historic landmarks and historic landmark districts within the Village.

(j) Advise the Village on all matters related to the use, administration and maintenance of Village-owned designated historic landmarks and historic landmark districts.

30-150.5. – Standards for Review.

Review criteria and eligibility for all recommendations issued by the Advisory Board shall be pursuant to Section 16A of the Miami Dade Code of Ordinances.

30-150.6. - Procedures for designation.

Applications for historic preservation, whether reviewed by the Advisory Board or the Council, shall be consistent with Section 16A of the Miami Dade Code of Ordinances. Any recommendation of the Advisory Board shall be forwarded to the Village Council for their consideration. Final recommendation by the Council shall be forwarded to the appropriate board/agency of Miami-Dade County.

30-150.7. Appeals.

(a) As both the Advisory Board and the Village Council act as advisory groups to the Miami-Dade County review for Historic Preservation, appeals of the Miami-Dade County decision shall be pursuant to the County's regulations relating to same.

30-150.8. - Enforcement of Maintenance and Repair Provisions.

Where the Historic Preservation Board or board's staff determines that any improvement within a designated historic landmark or historic district is endangered by lack of maintenance and repair, or that other improvements in visual proximity to an historic landmark or historic landmark lack maintenance and repair to such an extent as to detract from the desirable character of the historic landmark or historic landmark district, it shall request appropriate officials or agencies of the Village to require correction of such deficiencies under authority of applicable laws and regulations.

30-150.9. - Unsafe Structures.

In the event the building official determines that any structure within a designated historic landmark or historic landmark district is unsafe pursuant to the Florida Building Code, he or she shall immediately notify the Historic Preservation Board with copies of such findings. Where reasonably feasible within applicable laws and regulations the building official shall endeavor to have the structure repaired rather than demolished and shall take into consideration any comments and recommendations by the advisory board. The advisory board may take appropriate actions to effect and accomplish preservation of such structure, including, but not limited to, negotiations with the owner and other interested parties, provided that such actions do not interfere with procedures in the Florida Building Code.

30-150.10. - Economic Incentives.

It is the policy of the Village to assist the owners of historic properties to obtain applicable state and federal tax benefits for preserving historical properties. The board's decision on an application for a certificate of appropriateness shall be based upon an evaluation of the compatibility of the physical alteration or improvement with surrounding properties and, where applicable, compliance with the following:

(a) The Secretary of Interior's Standard for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, as revised from time to time; and

(b) Other guidelines/policies/plans adopted or approved by resolution or ordinance by the Village.

Sec. 30-150.11. - Penalties for Offenses.

Any person who carries out or causes to be carried out any work in violation of this Division and Miami-Dade County, Chapter 16A, shall be required to restore the subject improvement, landscape feature, or site, either to its appearance prior to the violation or in accordance with a certificate of appropriateness approved by Miami-Dade County,. This civil remedy shall be in addition to and not in lieu of any criminal prosecution and penalty otherwise provided under state law.

30-150.12 Legislative Review.

This section shall stand repealed on October 1, 2014, unless reviewed and saved from repeal through reenactment by the Mayor and Village Council.

* * *

Section 3. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are repealed.

Section 5. This ordinance shall not be codified in the Code of Ordinances but shall be included in the history table.

Section 6. If any section, clause, sentence, or phrase of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the remaining portions of this ordinance.

Section 7. This ordinance shall take effect immediately upon enactment.

PASSED AND ENACTED this [] day of _____, 2012.

Attest: _____
Meighan Alexander
Village Clerk

Shelley Stanczyk
Mayor

APPROVED AS TO FORM:

Eve A. Boutsis
Village Attorney

FINAL VOTE AT ADOPTION:

Council Member Patrick Fiore _____

Council Member Howard Tendrich

Council Member Joan Lindsay

Vice-Mayor Brian W. Pariser

Mayor Shelley Stanczyk
