

## ARTICLE 7. - ARCHAEOLOGICAL RESOURCES

### Section 106.49. - Purpose.

It is the purpose of this article to implement the City of Marathon Comprehensive Plan, and to preserve, protect, and restore archaeological resources. These resources constitute the physical evidences of past human activity, as well as evidences of the effects of that activity on the environment, including, but not limited to: monuments, memorials, ~~Indian~~ indigenous habitations, ceremonial sites, abandoned settlements, sunken or abandoned watercraft, engineering works, treasure troves, artifacts, or other sites, landforms, properties, objects or features with intrinsic archaeological value.

### Section 106.45. - Significant Archaeological Resources.

Significant archaeological resources are those archaeological resources that are listed or regulated by the State of Florida.

### Section 106.50. - Definitions

For the purposes of this article, the terms and phrases listed below shall have the following meanings, as well as those terms identified in Article 5 Section 106.40 as applicable:

*Archaeological evaluation report* means a letter prepared by the qualified archaeologist evaluating the potential significance of an archaeological site after issuance of a suspension order by the department.

*Archaeological site* means a property or location which has yielded or might yield information on the City, county, state or nation's history or prehistory. Archaeological sites are evidenced by the presence of artifacts and features on or below the ground surface indicating the past use of a location at least 75 years ago by people or the presence of non-human vertebrate fossils. Archaeological sites include aboriginal mounds, forts, earthworks, City locations, camp sites, middens, burial mounds, missions, historic or prehistoric ruins which are, or may be the source of artifacts or other items of significant archaeological value.

*Archaeologist, qualified* means an archaeologist who is a member of, or is qualified for membership in the Archaeological Council or the Society of Professional Archaeologists.

*Certificate to dig* means a certificate that is necessary prior to:

- (1) Issuance of a development order for parcels identified on the map of known archaeological sites;
- (2) Removal of a suspension order on a site where artifacts or fossilized human remains or non-human vertebrate fossils are found during the development process.

### Section 106.51. - Identification.

- A. *General Mapping:* Maps of known archaeological sites are maintained by the Florida Department of State, Article of Historical Resources, Master Site File.
- B. *Site-specific Determination:* Surveys and analyses for archaeological resources shall be required prior to alteration of a property known or likely to contain resources of archaeological significance, as set forth for historic sites and structures in [this article].
- C. *Standards for Authorized Investigation:* Surveys and analyses for archaeological resources shall be conducted in accordance with standards and methodology appropriate to archaeological resources, as set forth for historic sites and structures in this article.

Section 106.52. - Procedures.

- A. Archaeological landmark: A special certificate of appropriateness (as defined in Section 106.43 D.) is required before a building permit or other development order may be issued for a designated historic site that contains an archaeological landmark or known archaeological site. This subparagraph does not apply to digging or other excavation conducted by entities devoted to scientific and archaeological research or education, when conducted solely for the purposes of research and education. An owner of an archaeological landmark or known archaeological site who desires to develop it shall file an application for a special certificate of appropriateness with the Planning Department, on a form prescribed by the director.
1. The application shall describe in detail the development proposed for the archaeological landmark together with a proposed site plan. The application shall also contain the following:
    - a) A scientific evaluation of the site by an archeologist (including excavation if determined necessary by the archeologist) at the applicant's expense;
    - b) An archaeological survey, conducted by an archeologist, containing an analysis of the impact of the proposed development on the archaeological site;
    - c) A proposal for mitigation measures; and
    - d) A proposed plan for the protection or preservation of all significant parts of the archaeological landmark.
  2. When the Planning Director determines that the application is complete, the director shall schedule the application for a public hearing before the HPC and cause notice of the public hearing to be given. If the application is determined to be incomplete, then the department shall request additional information by certified mail. In determining whether to recommend to the City Council to grant, deny, or grant with conditions, the application, the HPC shall consider the application according to the following factors:
    - a) The extent to which the proposed development will alter, disturb, or destroy the archaeological landmark.
    - b) The rarity or significance of the archaeological landmark within the county.
    - c) Whether mitigation or a redesign of the proposed development will allow the archaeological landmark to be preserved intact while allowing the owner a reasonable economic return on his property.
    - d) Whether a denial of the application will result in an inordinate burden being placed on the owner's use of his property.
  3. The City Council shall consider the recommendation of the HPC at the next regularly scheduled public hearing by the time the public notice requirements can be satisfied, or as such time as is mutually agreed upon between the applicant and the Planning Director. Notice of the public hearing shall be given to the property owner(s) by certified mail and to other interested parties by an advertisement in a newspaper of general circulation at least ten days prior to the hearing. At the conclusion of the public hearing, the City Council shall, by written resolution grant, deny, or grant with conditions, the special certificate of appropriateness. The resolution shall contain an explanation of the basis for the City Council's decision. Upon the filing of the

resolution with the City clerk, the clerk shall send a certified copy of the resolution by registered mail to the applicant.

B. When one or more previously unidentified artifacts or human skeletal or fossilized remains or non-human vertebrate fossils are found on a property during development or other site-disturbing activity, all development or disruptive activity directly over the potential find shall immediately cease. Before any further development or disruptive activity continues, the following procedure shall apply:

1. The area directly over the potential find shall be staked by the property owner or an agent of the property owner, the contractor or subcontractor, or other party discovering the potential find.
2. Within one working day of discovering the potential find, the Planning Department and, if applicable, the property owner shall be notified.
3. Within three working days of discovering the potential find, the Planning Director shall cause an inspection and evaluation of the site by a qualified archaeologist for the purpose of determining whether artifacts or human skeletal or fossilized remains or non-human vertebrate fossils are located on the site. If the qualified archaeologist determines that a significant archaeological resource is on-site or is likely to be on-site, then the director shall issue an order suspending construction or other disruptive activity in the defined potential archaeological site, based on the archaeologist's assessment. This order shall not have the effect of a stop work order and shall not stop construction or other disruptive activity not directly impacting the defined potential archaeological site.
4. The qualified archaeologist shall evaluate the significance of the archaeological find, and shall send a written archaeological evaluation report to the property owner and to the Planning Director postmarked within seven working days from issuance of the suspension order.
5. In the archaeological evaluation report, the qualified archaeologist shall require that an application for a certificate to dig be prepared if the archaeologist determines that the site contains artifacts of significant archaeological value. If the qualified archaeologist determines that there is no reasonable possibility that artifacts of significant archaeological value are contained on the site, then the archaeologist shall make such a finding in the report and the department shall immediately lift the suspension order.
6. In order to encourage individuals to bring potential artifacts to the City's attention, private citizens engaged in disruptive activity which does not require a development order, who discover a potential artifact, fossil or remains, may request a waiver of application fees and shall not be subject to the timeframes required in this section.
7. If human skeletal remains are found, then F.S. § 872.05 controls.
8. If required, an application for a certificate to dig shall be submitted prior to an application for a development order. The application shall be on a form prescribed by the Planning Director. Only one certificate shall be required per property, unless additional resources are found during site development. The application shall include a report prepared by a qualified archaeologist which shall contain, at a minimum, 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 shall include the preparation of a Florida Master Site File form, which shall be forwarded by the Planning Department to the division of historical resources of the Florida Department of State.

9. Within three working days of receiving an application for a certificate to dig, the Planning Department shall make a determination whether the application is complete. If the application is determined to be incomplete, then the department shall request additional information by certified mail. When the application is complete, the department shall forward it to the HPC, which shall hold a hearing within 30 days of receipt of the application from the department. The department shall prepare its report on the application and provide a copy to the applicant at least ten working days prior to the hearing. Evaluation of the application by the department, HPC and the City Council shall be guided by the requirements of this section, the recommendations included in the archaeologist's report, and the recommendation of the archaeologist who prepared the archaeological evaluation report.
10. The HPC shall respond to the application in one of the following ways:
  - a) If the property is determined to have no significant archaeological value, the HPC shall issue the certificate to dig and lift the construction suspension order, if applicable, and development may proceed.
  - b) If the property is determined to have significant archaeological value, the HPC shall recommend to the City Council the certificate to dig with conditions that it deems necessary to protect or permit the excavation of any part of the site found to be of significance, including conditions regarding site design. In order to protect these resources, the HPC may recommend to the City Council that the applicant to do one or more of the following:
    - i. Preserve the archaeological site within open space of the development;
    - ii. Redesign the development to accommodate preservation of all or a portion of the site containing the significant archaeological resources; or
    - iii. The property owner may voluntarily fund or seek funding for the excavation of the resource, if agreed to by the department.
  - c) The City Council shall consider the recommendation of the HPC at the next regularly scheduled public hearing by the time the public notice requirements can be satisfied, or as such time as is mutually agreed upon between the applicant and the Planning Director. Notice of the public hearing shall be given to the property owner(s) by certified mail and to other interested parties by an advertisement in a newspaper of general

circulation at least ten days prior to the hearing. At the conclusion of the public hearing, the City Council shall, by written resolution grant, deny, or grant with conditions, the certificate to dig. The resolution shall contain an explanation of the basis for the City Council's decision. Upon the filing of the resolution with the City clerk, the clerk shall send a certified copy of the resolution by registered mail to the applicant.

- d) If the HPC finds that it is impossible to adequately preserve the significant archaeological resources using the standards and procedures in Section 106.54 of this Article, and the proposed development plan will adversely affect the resources, the HPC may recommend to the City Council to delay issuance of the certificate to dig for up to eight weeks after the submittal of a completed application to it, so that either:
- i. Appropriate archaeological excavation may be conducted to properly extract and interpret the significant archaeological resources found on the site;
  - ii. The City may approach any recognized historic preservation agency to seek alternate solutions; or
  - iii. A buyer may be found to purchase the site for either site preservation or to allow detailed excavation, analysis and interpretation of the site.

#### Section 106.53. - Prohibited Activities.

Except as otherwise expressly provided in this Section, no development activity involving ground disturbance shall occur on a property containing, or having reasonable potential to harbor, resources of archaeological significance, without the appropriate analysis and opportunity for mitigation as specified in this article.

#### Section 106.54. - Standards for Protection.

Avoidance, minimization, and mitigation (in that order of preference) of adverse impacts on significant archaeological resources shall be required as appropriate to the scale and significance of the resource.

- A. Development activities shall include precautions necessary to prevent the following adverse impacts to historic or archaeological sites of significance:
- 1. Destruction or alteration of all or part of such site;
  - 2. Isolation from or significant alteration to its surrounding environment;
  - 3. Introduction of visible, audible, or atmospheric elements that are out of character with the property or significantly alter its setting;
  - 4. Transfer or sale of a site of significance without adequate conditions or restrictions regarding preservation, maintenance, or use; and
  - 5. Other forms of neglect resulting in its deterioration.

Development orders for parcels containing known or suspected areas of archaeological significance shall be conditioned, where appropriate based on recommendation from qualified professional, to accomplish the following:

- A. Insure proper archaeological investigation prior to construction; and, where appropriate, avoidance, minimization, and mitigation of impacts.
- B. Preserve and provide perimeter buffering around significant archaeological sites in order to maintain the security and integrity of the resource. This may include, if necessary, alteration to the proposed or originally approved site plan.
- C. Where archaeological sites are to be preserved, incentives to encourage retention of these areas may be provided.

D. Mitigation plan required.

1. Development impacting a historic or archaeological site or structure shall include a site plan that mitigates any potential adverse impacts. The site plan shall address the following:

- a) Destruction or alteration of all or part of such site;
- b) Isolation from or alteration of the surrounding environment;
- c) Introduction of visual, audible, or atmospheric elements that are out of character with a property or alter its setting;
- d) Transfer or sale of the site of significance without adequate conditions or restrictions regarding preservation, maintenance, use or reuse;
- e) Vegetation removal shall not be permitted on a historic or archaeological site unless the vegetation to be removed is a part of a duly authorized scientific excavation or is a part of an approved development plan; and
- f) Other forms of neglect resulting in resource deterioration.
- g) Mitigation of archaeological resources may include, but is not limited to the following:
  - i. The excavation of an archaeological resource or an object or property that is integrally related to a significant archaeological resource shall be prohibited without allowing an opportunity for the acquisition of fee or less-than-fee interest in the property by a governmental unit, an organization, or by any other entity committed to the preservation, restoration, or rehabilitation of the resource(s).
  - ii. Adaptive use of archaeological landforms or properties consistent with preservation of their archaeological character shall be encouraged.