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The Missing Link: Archaeological Resource Protection in Charleston, South Carolina

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THE MISSING LINK: ARCHAEOLOGICAL RESOURCE PROTECTION IN CHARLESTON, SOUTH CAROLINA

A Thesis
Presented to
the Graduate School of
Clemson University
and the College of Charleston

In Partial Fulfillment
of the Requirements for the Degree
Master of Science
Historic Preservation

by
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ABSTRACT

Charleston, South Carolina is one of the nation’s leading cities in preservation of its built environment – meaning historically and architecturally significant dwellings, sites, and structures. Protection of the city’s underground resources, however, falls considerably behind as there is no archaeological preservation ordinance in place, nor is there an archaeological commission or city archaeologist to oversee and administer development projects potentially affecting significant historic and archaeological remains. Excavation and preservation of Charleston’s archaeological sites is essential in providing insight to the development of the city and its unique cultural heritage.

The purpose of this study is to address the need for archaeological resource protection for the city by providing a better understanding of the importance of urban archaeology and by examining and identifying gaps within current federal, state, and local archaeological preservation regulations. Furthermore, three case studies of localities with effective protection measures - Alexandria, Virginia, St. Augustine, Florida, and Pima County, Arizona - will be provided to study and compare the efficiency of the primary components of each approach and how they can apply to Charleston. In conclusion, recommendations will be offered on how Charleston can effectively incorporate archaeological protection measures into city regulations in order for the preservation of the city’s archaeological heritage to reflect the same level of excellence Charleston has achieved in preservation of the built environment.
DEDICATION

I would like to dedicate this to my family for their encouragement and support throughout this experience and always, and to my classmates for whom I feel so fortunate to have shared this journey with.
ACKNOWLEDGMENTS

I would like to thank my professors for making the past two years such an enjoyable learning experience. I would especially like to thank my advisor, Jennie McStotts, for her incredible guidance and encouragement throughout this whole process.

I would also like to thank Katherine Saunders, Associate Director of Preservation at the Historic Charleston Foundation, and Martha Zierden, Curator of Historical Archaeology at the Charleston Museum, for their guidance and expertise.
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CHAPTER ONE
INTRODUCTION

Charleston, South Carolina has been one of the nation’s foremost leaders in historic preservation since the early twentieth century. With the implementation of America’s first zoning ordinance to protect historic resources in 1931, Charleston’s Old and Historic District was created, encompassing the core of early civic, social, and economic life in colonial Charleston. While the city has taken tremendous measures to protect Charleston’s built environment – meaning historically and architecturally significant dwellings, sites, and structures – it is considerably lacking in the protection of the city’s underground resources.

Excavation and preservation of Charleston’s archaeological sites is crucial to providing a better understanding of the evolution of the city and to shedding light on the daily life of early Charlestonians in an urban environment. To capture and preserve the past of this historic city to its fullest extent, protection of the city’s archaeological resources should reflect the excellence Charleston has achieved in preserving its built environment. Therefore, to protect the archaeological heritage of the city, archaeological protection measures should be adopted for the city of Charleston.

Rapidly increasing development pressures within Charleston lead to the potential destruction of significant and irreplaceable remnants of the city’s past. Although federal and state laws are in place to protect archaeological resources, it is becoming more evident that these laws may not be sufficient protection for
many areas. Federal and state review laws require that potential impacts to
archaeological resources be assessed prior to construction activities and may
require any adverse effects be rerouted or mitigated. However, many construction
activities in urban areas, such as single-family residences, commercial buildings,
and even large-scale development projects, do not fall under the jurisdiction of
federal or state review. As a considerable number of development activities do
not require governmental funding or sponsorship, they are not included in the
jurisdiction of specific agencies that protect archaeological resources. Since
Charleston does not have an archaeological protection ordinance, or a designated
archaeological commission or city archaeologist, any construction projects
outside this realm are not required to have an archaeological assessment
conducted prior to construction. It is important to note, however, that several
archaeological investigations have been conducted in the city with the support of
interested parties, such as homeowners or preservation organizations. In most
cases, every time construction begins on a development project potentially
valuable archaeological remains providing links to the city’s past are lost.

The intent of this study is to address the need for archaeological resource
protection in the city of Charleston. Federal, state, and local archaeological
resource protection regulations will be reviewed in order to determine the scope
of cultural resources being protected at various levels, and even more importantly,
to identify significant gaps within the overall realm of historic and archaeological
preservation in the United States. Fortunately, an increasing number of
communities are carrying out protection measures in a variety of ways. Three
notable local governments, each with different protection measures that have proven to be effective, will be examined closely in this study: Alexandria, Virginia, St. Augustine, Florida, and Pima County, Arizona. Examining the essential elements of these different approaches to archaeological resource protection will provide considerable insight as to how these approaches can apply to Charleston.

Ultimately, this study seeks to provide a better understanding of the importance of archaeological resource protection and to increase awareness of the need for protection in the city of Charleston. Historic and archaeological remains are invaluable resources in uncovering and preserving the unique heritage of Charleston. In the conclusion of this research, recommendations will be offered on how Charleston can effectively incorporate archaeological resource protection measures into city regulations. The primary focus of this study was to determine the most suitable protection approach for the city based upon Charleston’s existing procedures and resources, therefore the recommendations do not touch specifically on political or financial feasibility but rather on the overall picture of Charleston’s great potential to protect its underground resources. Although the county of Charleston as a whole was considered in this research, it was determined that because of the nature and scope of this study, it was more appropriate to focus on the city specifically. However, further study of archaeological resource protection within Charleston County is recommended to provide a more complete and comprehensive understanding of historic and archaeological preservation in the Lowcountry.
The practice of urban archaeology focuses on the study of the growth and development of cities through examination of the material culture in urban centers with long-term human habitation. Viewing the modern city as an archaeological site, urban archaeologists conduct historic research and fieldwork to document changes in people’s everyday lives in an urban setting. In an archaeological account of New York City, Anne Marie Cantwell and Diana Dizerega Wall note that “for archaeologists, all these finds, the humble and the grand, the fragmented and the whole, have meaning because their creation, use, and disposal were deeply embedded in the social, economic, and symbolic worlds of the people whose ways of lives they are studying.” The discipline of urban archaeology was not prevalent in the United States until the last quarter of the twentieth century, when historians, environmentalists, cultural anthropologists, urban studies experts, and archaeologists alike began to realize the significance of uncovering and preserving the abundance of archaeological remains that lie hidden beneath the urban landscape. Today, cities and towns across the nation practice urban

1 Dr. Edward Staski defines urban archaeology as “the study of relationships between material culture, human behavior and cognition in an urban center,” while urban centers or cities are “sociopolitical entities” that characterize urban settings. Linda F. Stine, Martha Zierden, Lesley M. Drucker, and Christopher Judge, eds, Carolina's Historical Landscapes: Archaeological Perspectives (Knoxville: The University of Tennessee Press, 1997), 161.
archaeology as an effective tool to reveal and to educate the public on their areas’ rich historical and cultural heritage.

The actual practice of urban archaeology is considered a subdiscipline of historical archaeology, which is the study of human behavior and activity through both archaeological data as well as historical accounts. Through historical archaeology, “new information is gathered on how battles were fought, how people migrated, how ethnic groups lived, and how historic groups and individuals defined themselves through the material remains they left behind.”

The study of historical archaeology encompasses a wide range of source material, including historical documents, oral history, architecture, and settlement pattern and artifact analysis.

Before the rise of modern archaeology in the United States in the second half of the twentieth century, New World archaeologists had focused their work on the stories of Native American societies before European settlement. Archaeologists generally excavated sites associated with Native American cultures such as the Pueblo societies of the Southwest and the mound-building cultures of the Midwest and Southeast. By the 1930s, however, some archaeologists began to focus on the period after European arrival. Working with historic preservationists, historical archaeologists focused on sites associated with significant events or individuals in the nation’s colonial history, such as battlefields and residences of prominent individuals.

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4 Ibid.
5 Cantwell, 9-10.
Modern archaeology emerged in the United States post-World War II. Historian Michael Kammen argues that during periods of “cultural anxiety,” such as the periods during and after World War II, Americans longed for tradition and a sense of rootedness. Kammen argues that the importance of archaeology in the United States became closely tied to this period of cultural anxiety, a time when Americans questioned their security and freedom, and voiced concerns with social change and a sense of “radical discontinuity.” As a result, the work of archaeologists in American cities today is very different than that of their peers abroad excavating in ancient cities. Kammen and others maintain the idea that modern archaeology in the United States is directly related to several social changes that culminated in the second half of the twentieth century.

During the 1960s and 1970s, Americans experienced a number of changes in the fields of social history and American archaeology, as well as in the environmental and historic preservation movements. Influenced by the works of social historians and the civil and women’s rights movements, archaeologists became interested in the history of ordinary peoples’ lives instead of focusing primarily on nationally significant events and individuals. Specifically, attention was directed toward individuals whose past is often overlooked, such as the poor, women, African Americans, and other minority groups. The environmental movement also had a profound effect on Americans during the 1960s. Realizing that they were not living in a world of infinite sources, Americans became concerned with preserving the environment. Many Americans argued that “the

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6 Ibid., 9.
7 Ibid., 9-10.
8 Ibid., 10.
environment” included not only natural resources but also cultural resources such as archaeological sites, landscapes and structures. Archaeologists began to realize that “archaeological sites, like members of endangered species, were finite in number.”9 With the rapid rise of modern development, environmentalists and archaeologists alike began to understand the importance of preserving not only the nation’s natural environment, but its cultural environment as well.10

In the United States, the practice of urban archaeology arose as a result of the cumulative effects of these social changes and movements in the 1960s and 1970s. The change in Americans’ perception of their past after World War II, as well as the evolution of social history and the growth of historical archaeology, greatly influenced archaeologists. Furthermore, the rise of contract archaeology, which is archaeology mandated by federal, state or local governments that came about as a result of new preservation legislation in the 1960s, and the concomitant development of cultural resource management as a field brought the scope of archaeological study to a new level: the study of modern American cities. The new legislative framework required contract archaeologists to look for archaeological evidence in areas of proposed construction, regardless of whether the areas where heavily urbanized. In such densely developed areas, traditionally thought to have been stripped of any archaeological or historical value due to continuous alteration of the landscape by development, archaeologists discovered a new spectrum of archaeological study.11

9 Ibid.
10 Ibid.
11 Ibid., 12.
In an account of the urban landscape in South Carolina, archaeologist Martha Zierden discusses the development of urban centers in colonial America.\textsuperscript{12} As Europeans immigrated to North America beginning in the sixteenth century, they brought with them traditions of an urban-based society. For protection, commerce, and a sense of community, colonial proprietors encouraged the development of urban centers. Colonial towns came to serve as significant social, political, and commercial centers for abbreviated localities; however, they were not large or complex enough to be considered cities. Efforts in creating urban centers in colonial cities were met with mixed success, and commercially profitable towns tended to be more established in the northern colonies. Nevertheless, these urban centers played a vital role in the development of urban life in colonial America. It was in the study of these early settlements where theories of urban archaeology first emerged.\textsuperscript{13}

A few notable settlements where the concept of urban archaeology first arose were Williamsburg, Virginia, St. Mary’s City, Maryland, and St. Augustine, Florida. These cities created programs in which the discipline of urban archaeology began to be “archaeology of the city” rather than “archaeology in the city.”\textsuperscript{14} Research in these areas focused on issues of urban development such as social and ethnic stratification, and urban spatial patterning. Additionally, projects resulted in the development of different techniques for dealing with practical and logistical problems of studying urban sites.\textsuperscript{15}

\textsuperscript{12} Stine, 161.
\textsuperscript{13} Ibid.
\textsuperscript{14} Ibid., 162.
\textsuperscript{15} Ibid., 161-162.
Dr. Bert Salwen, former professor of anthropology at New York State University, remarks on the practice of urban archaeology:

Since all human activity “disturbs” the locale in which it occurs, the evidence of past construction and destruction may be the very resource that gives an area its historical and cultural importance. Such an area may yield information about successive modifications of terrain, structures, waterpower systems, sewer systems, roads. It follows that urban, heavily built-up areas must be accorded the same thought and attention that is accorded more bucolic ones. Logically, they deserve more attention, since they have been the loci of much more human activity.16

Salwen provides several different examples of archaeology in urban contexts during the 1960s and 1970s. In Rensselaer, New York, members of the New York State Division on Historic Preservation, who were originally in the area to observe sewer trench excavations, identified pits containing aboriginal materials. In addition to a few European objects, these materials revealed one of the few known sources of information about the activities of the Hudson Valley Indians during the period of European contact. Whereas previously it had been assumed that these Native American sites had been destroyed by years of European activity, the discovery of these features found directly below a city street that had been heavily utilized for the past two hundred years made it evident that significant remains could be found intact amidst the construction of later inhabitants. In addition to Rensselaer, excavations under one of the busiest streets in Kingston, New York uncovered evidence of a defensive palisade erected by Governor Peter Stuyvesant in 1658. Along with the discovery of the Dutch

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fortification, excavations determined that the topsoil contained aboriginal specimens dating from the Archaic (4500 – 1300 BC) through the Woodland (1300 BC – 1600 AD) periods.\textsuperscript{17}

Although these excavations were very significant in uncovering important information on New York’s past, it can be argued that it was not until the Stadt Huys Block excavation in Lower Manhattan in 1979-1980 that urban archaeology truly emerged. In 1966, the Landmarks Preservation Commission designated as a landmark one of New York City’s only remaining late Federal commercial buildings left in the area. Even more significant, the building stood on a lot that had been occupied in the seventeenth century by the Stadt Huys, the first city hall of Dutch New Amsterdam. After limited archaeological excavation uncovered some seventeenth and eighteenth-century artifacts and stone foundation walls, New York City’s first large scale archaeological excavation began in 1979.\textsuperscript{18} Due to the location of the project in the heart of one of the busiest areas in downtown New York City, the project sparked enormous interest among citizens who became intrigued about uncovering their city’s past. The excavation proved extremely successful as archaeologists revealed the site of the King’s House built by Governor Francis Lovelace in 1670. Archaeologists uncovered tens of thousands of artifacts – the largest collection of materials that had ever been collected from a seventeenth-century site in the city to date. Additionally, they produced a six-hundred-page scientific report interpreting the site. The New York Landmarks Preservation Commission remarked that the project “visibly

\textsuperscript{17} Ibid., 454-455.
\textsuperscript{18} Cantwell, 16-18.
demonstrated that significant archaeological sites can survive in areas that have experienced a great deal of subsequent development.”19 Although a new office tower was constructed on the site, there will always be a reminder of the city’s early beginnings, as the locations of both Stadt Huys and King’s House are outlined in colored paving stones in the building plaza. Parts of the Tavern’s foundation were reconstructed underground where they are visible through windows flush with the plaza’s pavement.20

In addition to New York, other areas also experienced urban archaeology during its early stages of development in the United States. In Washington, DC, for example, excavations in the mid-1970s for the President’s pool on the White House grounds and the President’s Park on the White House ellipse uncovered portions of Native American sites. In the years following the American Bicentennial, eighteenth-century features in Independence Square in downtown Philadelphia received concentrated attention and archaeologists retrieved an abundance of information; in Franklin Court, Graham Hood reported on archaeological evidence of America’s first porcelain factory. Furthermore, in an urban renewal zone in Alexandria, Virginia, a series of wells dating from the eighteenth through the twentieth centuries was discovered.21

Urban archaeology emerged into a mature subdiscipline in the 1980s when archaeologists began to formalize methods to address urban site research. Cantwell and Wall note “in many ways, modern, living cities are the perfect

20 Cantwell, 28-30.
21 Salwen, 455-456.
laboratories for archaeologists to learn about that deep legacy of the American past. . . . In excavating cities, archaeologists can investigate the development of urbanism in America . . . yet in treating a major city as an archaeological site, they can learn far more than urbanization."22 Conducting archaeology in the city is key in providing a more accurate portrayal of the evolution of urbanism in colonial America.

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22 Cantwell, 2.
CHAPTER THREE
PROTECTION AT THE FEDERAL LEVEL

Several preservation laws are currently in place at the federal level to protect the nation’s historic and archaeological resources. Some of the most significant laws specifically pertaining to archaeological resource protection include the Antiquities Act of 1906, the Historic Sites Act of 1935, the National Historic Preservation Act of 1966, the Archaeological and Historic Preservation Act of 1974, and the Archaeological Resource Protection Act of 1979, the principal federal statute for archaeological resource protection in the United States. Two major federal preservation-related laws, the National Environmental Policy Act and section 4(f) of the Department of Transportation Act, also provide additional protection of archaeological resources. Over the last century, these laws have considerably changed the course of preservation in the United States.

Primarily motivated by patriotism, major private efforts to preserve historic and archaeological resources began in the early nineteenth century and focused on important historical figures and associated structures, the most notable of which was the successful campaign to save Mt. Vernon, George Washington’s home in Virginia. On the other hand, the federal government was not actively involved in preservation until the latter part of the nineteenth century when it began providing support for both natural conservation and historic preservation. In 1872, the government established America’s first national park, Yellowstone, located in Wyoming, Montana, and Idaho, to protect the “curiosities and
wonders” reported by early hunters in the area. Additionally, to protect prehistoric ruins from vandalism and destruction, Congress designated the Casa Grande ruins in Arizona as the nation’s first National Monument in 1889. Congress also appropriated $2,000 to protect the site, which was the first federal funding ever allocated for preservation. The government also began a program to acquire Civil War Battlefield sites to protect them from development and in 1890 authorized the nation’s first military park in Georgia, Chickamauga Battlefield.

In 1896, the case of United States v. Gettysburg Electric Railway Company was the first Supreme Court case in which the Court recognized that the federal government had the power to condemn private property in order to preserve an historic site. The holding of this case focused primarily on the Court’s refusal to adopt a limited constitutional interpretation offered by the railway company that would have placed the condemnation of the property outside the definition of a taking for “public purpose,” which was necessary for government condemnation of the property. The Gettysburg National Memorial was created as a result of the case. While Gettysburg Electric Railway Company was significant in the development of federal preservation law, the Court did not address major issues, such as whether the government could utilize regulatory measures to facilitate historic preservation. Furthermore, it did not

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25 Murtagh, 52.
address whether the government could extend efforts to condemn and acquire sites with no obvious historical connections.\textsuperscript{27}

The first federal policy to preserve historic and prehistoric sites on federal lands was implemented with the creation of the Antiquities Act of 1906. Congress established this act in response to continued vandalism and destruction of prehistoric remains in the Southwest by individuals for their personal collections or for resale of the artifacts.\textsuperscript{28} According to Section 1 of the act, “any person who shall appropriate, excavate, injure, or destroy any historic or prehistoric ruin or monument, or any object of antiquity” without a permit is subject to fines and imprisonment.\textsuperscript{29} The statute has no felony provisions, however, as the penalties are limited to criminal misdemeanor charges for violators. The act established a permit system for investigating archaeological sites on federal and Indian lands, and gave authority for the proper care and management of these lands to the Departments having jurisdiction, including Indian lands, forest preserves, and military reservations. Additionally, the act gave the President the power to establish national monuments for the purpose of protecting prehistoric and historic sites and structures, as well as other objects of historic or scientific interest.\textsuperscript{30}

The second major federal preservation law was the Historic Sites Act of 1935, which established a national policy for the preservation of historic American sites, buildings, objects, and antiquities of national significance. Under

\textsuperscript{27} Ibid., 2.
\textsuperscript{28} Murtagh, 53.
\textsuperscript{29} 16 U.S.C.\textsection 433 (2007).
\textsuperscript{30} Carnett, 2.
this act, the Secretary of the Interior is authorized to make historic surveys and other measures to protect historic properties. The National Historic Landmark Program was established under this act as well in order to set standards for the identification and preservation of historic landmarks.\textsuperscript{31}

Originally passed in 1966 and subsequently amended in 1980 and 1992, the National Historic Preservation Act established a federal policy of cooperation with other nations, Tribes, States, and local governments to protect significant cultural and historic resources in the United States. The act created a national preservation program and a system of procedural protections to facilitate identification and protection of resources at the national level. The act consists of three essential components including authorization of expansion and maintenance of the National Register of Historic Places, the Section 106 review process, and the responsibilities of federal agencies. Under the act, federal agencies are required to locate, inventory, and nominate properties to the National Register of Historic Places, as well as to be responsible for the preservation and maintenance of historic properties.\textsuperscript{32} The amendments of 1980 provided additional support for archaeological resources by requiring agencies to develop programs to inventory and evaluate historic resources. In addition, the amendments authorize agencies to charge fees for such activities to federal permitees and licensees.\textsuperscript{33} The 1992 amendments address archaeological resources related to Native Americans in

\textsuperscript{31} Ibid.
\textsuperscript{33} Carnett, 3.

The Section 106 Review Process, the core of the National Historic Preservation Act, requires federal agencies to consider the effects of their actions on historic resources before any funding, licensing, or other projects that may affect historic resources listed or eligible for listing on the National Register of Historic Places.34 Under the National Park Service’s National Register of Historic Places’ regulations, eligibility of any site, building, structure, or object is determined under the “Criteria for Evaluation” as follows:

(a) That are associated with events that have made a significant contribution to the broad patterns of our history; or
(b) That are associated with the lives of persons significant in our past; or
(c) That embody the distinctive characteristics of a type, period or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
(d) That have yielded, or may be likely to yield, information important in prehistory or history.35

Undertakings may be inclusive and may directly or indirectly affect historic resources, and federal agencies are only required to “take into account” the effect of an undertaking. Responsibilities under the Section 106 Review Process may be delegated to a state or local government; however, the federal agency is ultimately responsible and may be held legally accountable for compliance.36

The Archaeological and Historic Preservation Act was created in 1974 to provide for the preservation of historic and archaeological data that may

34 Miller, 5.
36 Miller, 5.
otherwise be irreplaceably lost as a result of federally-supported construction activity. Also known as the Archaeological Recovery Act or the Reservoir Salvage Act, the statute authorizes that up to one percent of project funds may be appropriated to conduct archaeological data recovery activities, in addition to any costs for archaeological work required for planning. Upon notification by a federal agency that significant resources may be destroyed, the Secretary of the Interior is required to conduct a survey, preserve the data, and consult with others regarding ownership and an appropriate repository for recovered items.

The principal federal statute established for protection of the nation’s archaeological resources is the Archaeological Resource Protection Act. Enacted in 1979, ARPA protects archaeological resources on all federal and Indian lands through a permit application process for the excavation and removal of archaeological resources. Section 2(b) states the purpose of the act:

To secure, for the present and future benefit of the American people, the protection of archaeological resources and sites which are on public lands and Indian lands, and to foster increased cooperation between governmental authorities, the professional archaeological community, and private individuals having collections of archaeological resources and data which were obtained before October 31, 1979 [the date of the enactment of this Act].

Many aspects of the act are enforced through uniform regulations, which were adopted in 1984. Permits are issued by the federal land manager, that is, any federal agency having jurisdiction over such land including the Secretaries of Interior, Agriculture, and Defense, and the Chairman of the Tennessee Valley

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37 Carnett, 3.
38 Miller, 11.
Authority. With regards to Indian lands, the permit applicant must consult with the Indian tribe before a permit is granted. Permits are generally only approved for research purposes as section 4(b)(2) states that the federal land manager must determine that “the activity is undertaken for the purpose of furthering archaeological knowledge in the public interest.”\footnote{16 U.S.C. § 470cc(b) (2007).} Furthermore, this section stipulates that any archaeological resources excavated or removed from public lands will remain the property of the United States and are to be preserved by a scientific or educational institution such as a university or a museum.\footnote{Ibid.}

Significant penalties are imposed under ARPA for the vandalism, alteration, or destruction of historic or prehistoric sites on federal and Indian lands, as well as for the sale, purchase, transport, or receipt of any archaeological resources within the United States or internationally in violation not only of the act itself, but also in violation of state or local law, ordinance, or regulation. Criminal penalties for a misdemeanor include a fine of not more than $10,000 and up to one year imprisonment, while a felony conviction results in a fine of not more than $20,000 and up to two years imprisonment. In the case of a second or subsequent violation, a fine of not more than $250,000 and up to five years imprisonment is enforced. Civil penalties are also enforced for any acts prohibited under Section 6 and for violations of permits, and they include the forfeiture of property used for illegal site disturbances or of illegally obtained artifacts. With the 1988 amendments, federal agencies are required to develop plans for surveying lands not scheduled for projects, to implement systems for

\footnote{16 U.S.C. § 470cc(b) (2007).}
\footnote{Ibid.}
reporting and recording archaeological violations, and to develop public awareness programs.\textsuperscript{42}

Additional federal legislation pertaining to archaeological resource protection includes section 4(f) of the Department of Transportation Act and the entirety of the National Environmental Policy Act. Section 4(f) of the Department of Transportation Act provides considerable protection of historic properties by prohibiting federal approval or funding of transportation projects administered by the Federal Highway Administration, the Federal Aviation Administration, the Urban Mass Transit Administration, or the United States Coast Guard that require the “use” of any historic site, public park, recreation area, or wildlife refuge, unless there is no feasible and prudent alternative and all measures are taken to minimize harm to significant resources. The National Environmental Policy Act of 1966 requires an Environmental Impact Statement be performed for all proposed major federal activities that may significantly affect the quality of the human environment. As a result, this act has become a strong and effective statute for the protection of cultural and archaeological resources.\textsuperscript{43}

With the implementation of several crucial protection measures since the beginning of the twentieth century, the federal government has significantly contributed to the preservation of historic and archaeological resources in the United States. Countless resources have been saved and continue to be protected by these laws. In addition to the preservation and management of historic and archaeological resources, these laws also present the opportunity for significant

\textsuperscript{42} Carnett, 3.
\textsuperscript{43} Ibid., 4.
educational research, thus providing the public with a greater understanding of America’s past.
CHAPTER FOUR
PROTECTION AT THE STATE LEVEL

Archaeological resource protection legislation varies widely at the state level. While some states have enacted distinct archaeological resource protection laws, others have incorporated an archaeological protection component into more general historic preservation or environmental protection laws. Since ARPA has been such an effective piece of legislation for archaeological resource protection, several states have adopted laws that echo, reinforce, or compliment its provisions. Under these companion statutes, states have adopted provisions that include restrictions on the sale of antiquities or forgeries, penalties or disincentives for activities that may damage archaeological resources on private land, extended protection of marked or unmarked burial sites, penalty provisions for individual violations, as well as statutes providing for acquisition of real property or artifacts.\(^{44}\)

Several other protective measures are implemented by state legislation such as the creation of state historical agencies and state archaeologists, as well as the development and management of state registers of historic places. Additionally, states are required to conduct state cultural resource surveys, to regulate issuance of permits for field investigations, and to report any discoveries that may have historic or prehistoric archaeological significance. States and state agencies play an essential role in protection of the nation’s archaeological

\(^{44}\) Carnett, 6.
resources by exercising their responsibilities under federal and state legislation such as the National Historic Preservation Act, state preservation laws, state and federal environmental laws, and transportation laws.45

Through legislation, agencies, and programs, South Carolina provides a variety of measures for protection of the state’s archaeological resources. State agencies such as the South Carolina Historic Preservation Office, the South Carolina Institute of Archaeology and Anthropology, the South Carolina Department of Natural Resources’ Heritage Trust program, the South Carolina Conservation Bank, and the South Carolina Department of Parks, Recreation, and Tourism, all play vital roles in protecting the state’s archaeological heritage. A number of agencies are actively involved in the identification and protection of historic and archaeological resources and serve as advisory agencies as well as repositories for preservation of these cultural remains.

The South Carolina State Historic Preservation Office, or SHPO, provides considerable support for protection of the state’s historic and archaeological resources in many ways, one of which is through its involvement in the federal review processes. According to the agency, its primary role is to consult with federal and state agencies about effects to historic properties, defined in the National Historic Preservation Act as “any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion on the National Register, including artifacts, records, and material remains related to such a property or resource.”46 The SHPO consults with government agencies on issues

45 Miller, 18.
pertaining to archaeological protection, such as the need for archaeological investigations prior to construction of a project, an assessment on a site’s significance, as well as mitigation and preservation plans for sites that may potentially be damaged by such construction activities.\textsuperscript{47} The Advisory Council on Historic Preservation, the independent federal agency established in the National Historic Preservation Act to administer the Section 106 Review Process, notes, “Federal agencies seek the views of the appropriate SHPO when identifying historic properties and assessing effects of an undertaking on historic properties.”\textsuperscript{48} The SHPO requires two archaeologists on staff to be responsible for reviewing all related archaeological investigations performed within the state, as well as making site visits and providing technical advice to agencies. However, staff archaeologists rarely perform fieldwork, as contract archaeologists perform the majority of fieldwork within the state. Along with the agency’s involvement in state and federal compliance projects, the SHPO is responsible for maintaining files for sites listed on the National Register of Historic Places.\textsuperscript{49}

In accordance with Section 106 of the National Historic Preservation Act, SHPO assists agencies in their determination of National Register eligibility and assessment of project effect. The three most common forms of investigation South Carolina uses to identify historic properties are Cultural Resource Assessments, Reconnaissance Surveys, and Intensive Surveys.\textsuperscript{50}

\textsuperscript{49}“State Agencies,” 1.
Resource Assessment is a process similar to an Environmental Assessment and contains necessary information to determine whether a project has the potential to affect buildings, structures, objects, or sites that are listed or eligible for listing on the National Register. The process is designed to be quick and generally inexpensive and can usually be conducted early in the planning process. In some instances, the assessment may eliminate the need for further investigation; however, most likely additional work will be necessary. Reconnaissance surveys are a type of field survey often used to gather initial information regarding the presence or absence of historic properties within a project area. Generally reconnaissance surveys include limited shovel testing in areas likely to contain historic and archaeological resources. The goals of an intensive survey are to describe the distribution of archaeological resources within a project area, determine the location and condition of such resources, classify types of archaeological properties present, and record the physical extent of archaeological properties present.

Established in 1963 as a University of South Carolina research institute, the South Carolina Institute of Archaeology and Anthropology, or SCIAA, is the principal state agency that manages and maintains archaeological site information. SCIAA is the legal repository for the state archaeological collection and conducts a wide range of field research across the state. The Office of Archaeology is

administered through this agency and advises the SHPO and other state and public agencies, as well as interested individuals, on compliance related activities. Also administered by SCIAA is the Division of Underwater Archaeology, which conducts surveys for waterfront developments that may potentially endanger underwater sites, researches and documents underwater sites, and provides for an active underwater archaeological education program for the public.54

As an educational program, the Sport Diver Archaeology Management Program offers field-training courses that provide divers with skills needed to assist SCIAA staff on underwater projects as volunteers. Additionally, in order to collect artifacts and fossils from waters under state jurisdiction, an individual is required to obtain a Hobby Divers License under SCIAA. Under this program, licensed divers must submit reports, which include a detailed description of features of artifacts and their precise location and are reviewed and recorded by SCIAA. The information submitted under the program “is very useful to state archaeologists in determining the range of artifacts and shipwrecks within South Carolina waters,” notes SCIAA.55 Licensed divers are allowed to keep their findings if, within ten days of the following the end of the calendar year in which the diving activities occurred, a quarterly report listing location, type, and quantity of finds is submitted to SCIAA, in the case of artifacts, and to the South Carolina State Museum, in the case of fossils.56

54 “State Agencies,” 1-2.
56 Ibid.
In 1976, the South Carolina Department of Natural Resources’ Heritage Trust program was created to inventory and preserve the state’s natural and cultural resources. The program has archaeologists who work with different agencies and landowners to identify and protect archaeological sites within the state. The South Carolina Conservation Bank was established in 2003 to conserve significant natural resources, wetlands, historic properties, and archaeological sites by preserving open space. The South Carolina Department of Parks, Recreation, and Tourism manages many archaeological sites within the state, such as the Colonial Dorchester State Historic Site and Charles Town Landing Historic Site.57

As a coastal state, the preservation of South Carolina’s archaeological resources in the coastal regions is just as vital as protecting inland resources. Protecting eight counties along the South Carolina coast, the South Carolina Coastal Zone Management Act of 1979 authorizes the state Office of Ocean and Coastal Resource Management (OCRM) to ensure that projects requiring state or federal permits are in compliance with the mandate of the Coastal Zone Management Program, defined in the Federal Coastal Zone Management Act of 1972. According to the South Carolina Standards and Guidelines for Archaeological Investigations, the OCRM must consider “the extent to which development could affect irreplaceable historic and archaeological sites of South Carolina’s coastal zone.”58 The act requires a management program to designate

57 State Agencies, 2-3.
and inventory certain natural and cultural areas as “Geographic Areas of Critical Concern,” also known as GAPCs, which are archaeological sites that are listed on or eligible for inclusion on the National Register of Historic Places.59

The OCRM also works closely with the Department of Natural Resources and county planners to protect the state’s cultural resources under the South Carolina Water Resources Planning and Coordination Act of 1967. Under this act, the department is required to consider the effect that development will have on cultural and environmental resources. Further protection on historic and cultural sites is provided through the South Carolina Mining Act of 1990. In accordance with the act, the South Carolina Land Resources Conservation Commission requires all reclamation plans to specify proposed methods that mitigate adverse affects on significant cultural and historic sites.60

Established in 1991, the South Carolina Underwater Antiquities Act provides significant protection of the state’s underwater archaeological resources. Under this act, SCIAA is responsible for management and protection of such resources on behalf of the State Budget Control Board. The act specifies that no artifacts or fossils may be disturbed or removed from a state-owned river or ocean bottom without a formal review and license issued by SCIAA’s Underwater Archaeology Division. Additionally, no persons may excavate or salvage a sunken warship that may contain human remains found within state waters without approval. Penalties are enforced upon violators, who may be fined or

59 South Carolina Standards and Guidelines for Archaeological Investigations, 5.
60 Ibid.
sentenced to a specific term. Under the Abandoned Shipwreck Act of 1988, the federal government delegated the power to manage and protect shipwrecks located within a state’s submerged lands to their respective states.


The principal code protecting cemeteries in the state is S.C. Code 16-17-600 Destruction of Graves and Graveyards. Under this section it is considered a felony to damage, remove, or desecrate human remains, as well as to vandalize, damage, or destroy graveyards, tombs, mausoleums, gravestones, or memorial monuments. The destruction or desecration of human remains is considered a felony and fines may reach up to $2,000 with imprisonment for at least one year and up to ten years. Additional permits from the South Carolina Department of Health and Environmental Control (DHEC) are required for the exhumation and transport of human remains.

Protection of state-owned or leased properties was first provided in 1992 when the state amended Title 60 of the 1976 Code of Laws of South Carolina to add a chapter pertaining to such properties. Under this statute, the South Carolina Department of Archives and History is authorized to identify and evaluate all

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61 Ibid., 7.
63 South Carolina Standards and Guidelines for Archaeological Investigations, 6.
65 South Carolina Standards and Guidelines for Archaeological Investigations, 6.
state-owned or leased facilities to determine which properties may be significant. Furthermore, authority was given to the department to institute a historic preservation review process for construction or permanent alterations affecting historic properties or facilities. State agencies are required to consult with the department when planning projects may adversely affect properties listed on the National Register.66

The South Carolina DHEC published regulations governing location of hazardous waste facilities. These regulations stipulate that hazardous waste, treatment, storage, and disposal facilities will be prohibited in areas where they may adversely impact archaeological sites, as determined by SHPO and state archaeologists. Additionally, the SHPO provides suggestions on how the location of hazardous waste facilities will affect historic properties.67

South Carolina has implemented a diverse range of preservation regulations over the years. It is evident that the role of the SHPO is integral to the protection of the state’s historic and archaeological resources. In addition to the SHPO, several other state organizations and regulations have greatly contributed to saving countless historic and archaeological sites within the state, and continue to play an active role today.

66 Ibid., 4.
67 Ibid., 5.
Although federal and state legislation provides considerable protection of archaeological resources of national as well as local significance, much of the development in the United States is private and therefore not subject to federal or state compliance procedures. To protect the historic and archaeological heritage of their city or town, many local governments have implemented a variety of protection measures in the form of ordinances, permit systems, or programs to ensure proper care and management of significant cultural resources. While many jurisdictions have implemented local historic preservation ordinances for the built environment, such protection may not necessarily extend to archaeological resources. As development rapidly rises across the United States, it is the responsibility of localities to provide adequate protection measures for archaeological resources so that significant remnants uncovering information of the city’s heritage are not irreparably lost.

As underground resources, archaeological remains may be even more vulnerable to the danger of development than the historic built environment. In a publication on site protection at the local level, Betsy Kearns and Cece Kirkorian discuss how communities can prevent the loss of their archaeological heritage by acknowledging and acting upon their responsibility to protect it.68 Kearns and

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Kirkorian examine different protection methods available to municipalities, one of which is through zoning regulations. Subdivision regulations, for example, often stipulate that development on parcels of land beyond a certain size set aside “open space” lands. By designating open space lands through subdivision review, local officials are given the opportunity to preserve archaeological resources. Additionally, without placing undue hardship on a developer, localities can work with property owners to determine a percentage of the development parcel that is required to be turned into parkland with areas that are archaeologically sensitive.69

Another option for municipalities to protect archaeological resources is through cluster zoning. With cluster zoning, the area of individual lots created by subdivision of a larger lot is reduced, while the total number of dwelling units remains the same. Land not used for house lots or driveways is used for recreational purposes or may be kept as open space. As a result, the community may take advantage of this type of zoning and include any known or potential areas of historic and archaeological resources in the undisturbed common land. In turn, construction activity may be directed to less sensitive portions of the development parcel.70

Although these methods of land use control may provide protection of archaeological resources to some extent, Kearns and Kirkorian argue that implementing a local preservation program is the most effective means of protection. To ensure adequate protection of resources, a locality may develop explicit mechanisms within the framework of their planning and zoning

69 Kearns, 2.
70 Ibid.
regulations. The most successful method of protection is creating an ordinance which mandates pre-construction identification and consideration of design alterations in regards to archaeological resources. A professional assessment of a parcel’s archaeological sensitivity may be conducted and consideration of archaeological resources should be integrated into the local project review process.\textsuperscript{71}

Localities across the United States have implemented successful protection measures for archaeological resources through a variety of methods. By 1985, two town governments in Connecticut – Greenwich and Westport – had integrated consideration of historical and archaeological factors into their planning and zoning permit application processes.\textsuperscript{72} Since the 1980s, several other localities in Connecticut have instituted significant archaeological protection measures. The town of Ledyard’s archaeological review process continues to serve as a model for other communities to follow. The town’s preservation plan contains listings and maps of all properties on the National Register of Historic Places. One of the major objectives of the preservation plan is to identify and avoid historic and archaeological sites prior to construction either through town-wide cultural resource surveys or by archaeological investigations of individual properties that are proposed for private development. Another aim is to preserve archaeological sites \textit{in situ} rather than excavate or salvage identified remains, as

\textsuperscript{71} Ibid.
\textsuperscript{72} Ibid., 1.
well as to list additional properties on the National Register in order to increase public awareness of preservation within the community.73

Another state that has been progressive in archaeological resource protection is Massachusetts. Under the General Laws of Massachusetts, Chapter 40: Section 8D, each town is authorized to establish Local Historical Commissions, or LHCs, in which towns are responsible for maintaining inventories of historic and archaeological properties as well as to advise local governing boards and agencies about historic preservation.74 The Massachusetts Historical Commission assists LHCs in several ways: advising them on preservation planning, providing grants-in-aid for the preparation of model guidance documents, plans and archaeological sensitivity maps, encouraging volunteerism through local archaeology projects, and facilitating public outreach and educational efforts through workshops and events. As a result, several towns and cities have integrated an archaeological component into their local government’s policies and/or programs in various ways, such as through regulatory review and planning programs. Some towns allow LHC review of subdivision approvals or wetland permits, while others have created preservation plans with an emphasis on archaeological resource protection.75 Wayland, Massachusetts was the first town in the state to establish an archaeological component, the Wayland Archaeology Group, or WARG, within their LHC, in

which the group conducts data recovery programs and comments on the impact of archaeological sites to local boards. Additionally, town-wide reconnaissance surveys and archaeological sensitivity maps are prepared. Salem, Massachusetts created a citywide archaeological sensitivity map and plan identifying priority areas for survey and protection, as did Boston, Massachusetts, which also has a city archaeologist on staff within the Environmental Department.76

A few localities within South Carolina have implemented legislation to provide additional protection of their archaeological heritage. In 1990, Hilton Head Island developed South Carolina’s first local ordinance protecting archaeological resources; it requires protection of all archaeological sites, as well as any structures or artifacts on such sites, from disturbance or removal without written permission from the town manager or designee. Each act of damage or disturbance to resources constitutes a separate offense, and each violation is punishable. Additionally, the use of metal detectors, probes, or similar devices on any historical or archaeological sites constitutes evidence of intent to violate the ordinance and is considered a separate offense.77 The SHPO gives the town technical advice on the suitability of specific archaeological surveys, excavation plans and reports.78

In 1999, Beaufort County, South Carolina added a historic preservation section to its Zoning and Development Standards Ordinance to protect significant archaeological and historic resources of the county. General requirements of the

76 Bell, 6.
78 South Carolina Standards and Guidelines for Archaeological Investigations, 6.
ordinance include the stipulation that all proposed developments are required to have a written statement from the county planning director or county historic preservationist. In that statement, the authorities are to indicate whether or not the location of a proposed development contains any archaeological resources identified either through existing surveys, historic maps, and documents, and whether or not a site is listed, determined eligible for listing, or potentially eligible for listing on the National Register of Historic Places. Protected are all areas identified under the “Cartographic Survey of Historic Sites in Beaufort County, South Carolina” as having the potential to yield significant archaeological information. If it is determined that a proposed project contains or is likely to contain archaeological resources, a professional archaeological survey will be conducted. If necessary, an Intensive Level Archaeological Survey may be conducted as well as Historic Resource Documentation. The Intensive Archaeological Survey, comparable to the intensive surveys facilitated by the state to identify historic properties in that it determines the location and condition of resources, is based on a systematic approach, and differentiates areas having high or low potential for containing historic and archaeological resources.79

Upon completing these components, the director determines whether or not a project will have an adverse effect on archaeological resources within the area. If it is determined that a project will adversely affect resources, the applicant of the project must enter a Memorandum of Agreement, or MOA, with the county, who will stipulate mitigation measures that will be required prior to the

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issuance of a permit of approval. Mitigation may include such methods as
preservation in place (possibly consisting of open space), protective barriers, deed
restrictions, or preservation covenants and easements. Documentation and data
recovery of resources may be necessary if it is determined that an adverse effect
to an archaeological site cannot be avoided. An archaeological data recovery
mitigation plan may include provisions of ownership and preservation of the
excavated artifacts, field notes, records, maps, photographs, and related materials
and all identified sites must be reported to SCIAA and the SHPO as necessary.80

Berkeley County and the city of Mt. Pleasant have also implemented
archaeological resource protection measures. Adopted in 1997 and revised in
1999, the relevant Berkeley County code stipulates that a special permit is
required for any development that might affect properties listed in the National
Register. The county set certain standards for developments to be issued special
area permits so that adverse affects to historic and archaeological resources will
be minimized. The city of Mt. Pleasant implemented an Impact Assessment
Section within its Zoning Code specifying that developers must provide “proof of
coordination with the SCDHEC-OCRM” for cultural and archaeological resources
in a development area.81 The purpose of the impact assessment is “to provide a
basis for assessing a proposed major development project’s favorable or
unfavorable impact on the town’s overall environment and infrastructures, natural

80 Ibid.
81 South Carolina Standards and Guidelines for Archaeological Investigations, 6.
ecology, and economic, historic, social, and related public resources,” according to the ordinance.82

A growing number of local jurisdictions continue to implement a diverse range of archaeological resource protection measures. Whether localities have integrated protection measures into their zoning and development processes or historic preservation ordinances, or have created completely separate ordinances and programs pertaining to archaeological and historic resource protection, these different methods have proved to be effective in preserving significant cultural resources. In order to protect their cultural heritage to its fullest extent, communities must reach beyond reliance of federal and state regulations and take an active role in preserving their past.

CHAPTER SIX
PRESERVATION AND ARCHAEOLOGY IN CHARLESTON

Since the early twentieth century, Charleston, South Carolina has been widely acknowledged as one of the nation’s strongest advocates of historic preservation. While protection of the built environment, such as historic and architecturally significant dwellings, sites, and structures, has been a central component in shaping the modern city, preservation of Charleston’s underground cultural resources falls considerably behind. Archaeological research was not commonly carried out in Charleston until the second half of the twentieth century, especially during the 1970s and 1980s when federally-funded Urban Renewal projects in the city required archaeological recovery. Several state and federally-funded archaeological excavations have been conducted in Charleston since the 1960s, as well as some privately funded excavations with the support of interested parties such as homeowners and preservation organizations. Nevertheless, the lack of sufficient protection of the city’s archaeological resources continues to cause the loss of numerous irreplaceable remnants of Charleston’s past.

Dr. Carter Hudgins, former Executive Director of the Historic Charleston Foundation, remarks:

When compared against the general American standard, Charleston’s record of caring about its past is stellar . . . Unfortunately, a city that treasures its past, and indeed has
garnered an international reputation for its preservation ethos, has not always exhibited the same level of concern for its archaeological past.83

Charleston has taken tremendous measures to protect its historic built environment, yet it is evident that the same standard of protection has not been applied to archaeological resources. It is important to look at the rise of preservation in Charleston to recognize the major imbalance in preservation of the city’s built environment and its underground resources. Furthermore, it is essential to have a better understanding of the great potential Charleston has in providing sufficient archaeological resource protection based upon its remarkable success in above-ground preservation.

Early preservation efforts in Charleston focused on saving public buildings from the colonial era. Like many Americans around the turn of the twentieth century, Charlestonians maintained a growing interest in their nation’s past. Learning about and educating the public on America’s early beginnings was the goal of many people and ultimately created a strong sense of nationalism. Local Charleston chapters of two national organizations, the National Society of Colonial Dames and the Daughters of the American Revolution, took great interest in preserving the city’s earliest buildings associated not only with Charleston but more significantly with the development of the nation.84 In 1902, the Colonial Dames acquired one of Charleston’s oldest extant structures associated with the permanent settlement of Charleston in 1680, the Powder

Magazine, which served as their headquarters and eventually as a museum. The Colonial Dames’ sister organization, the Daughters of the American Revolution’s Rebecca Motte chapter, acquired the Old Exchange Building, a mid-eighteenth-century structure formerly the local customs house and city hall, in 1913, which also functioned as offices as well as a museum. 85 Both of these early preservation campaigns were significant in Charlestonians’ growing interest in preservation and protection of their local and national heritage.

While the Colonial Dames and the Daughters of the American Revolution sought to rescue local and nationally significant public buildings in the early 1900s, the first public campaign in Charleston to save a private residence was not until the 1920s, when Susan Pringle Frost led the effort to save the Joseph Manigault house. Constructed circa 1803 as a private residence, the building had passed through many hands, and by the early twentieth century, the lot had been subdivided into a tenement, and the kitchen building and north yard were sold and replaced by a dry cleaning firm. The threat of demolition of the dwelling to build a Ford auto dealership in 1920 provoked Susan Pringle Frost and other interested Charlestonians to organize and form the city’s first preservation organization, the Society for the Preservation of Old Dwellings. Frost, the founder and first president, was a real estate agent, suffragist, and feminist who had worked independently for a number of years to save historic residences within the city. The Society for the Preservation of Old Dwellings rescued the Joseph Manigault house in May of 1920, but as a newly formed organization, ownership proved to

be unsustainable. After passing through several different owners, the property was donated to the Charleston Museum in 1933, which still owns and operates the property today.\textsuperscript{86}

Since the early 1920s, the Charleston Museum has played an essential role in the preservation of the city’s historic resources. Under director Laura M. Bragg, the museum became a repository for architectural remnants as it acquired them from historic buildings scheduled for demolition. Along with the Joseph Manigault house, another historic dwelling the museum eventually acquired was the late eighteenth-century Heyward-Washington house. During the late 1920s, the first floor was used as a bakery, and art collectors became interested in acquiring the architectural contents of the house, which in turn prompted the museum and the Society for the Preservation of Old Dwellings to start a fundraising campaign in 1929 to raise money to purchase the property. The organizations were successful in acquiring the property and hired the firm of Albert Simons and Samuel Lapham to restore major portions of the structure. In 1931, the house opened to the public as a museum. Despite earlier efforts at the Joseph Manigault house, the Heyward-Washington house is generally considered the city’s first historic house museum.\textsuperscript{87}

The early efforts of both the Colonial Dames and the Daughters of the American Revolution, as well as the Society for the Preservation of Old Dwellings and the Charleston Museum, cast preservation as an educational enterprise, establishing museums to inform the public on local as well as national

\textsuperscript{86} Ibid., 260-262.
\textsuperscript{87} Ibid., 264-265.
history. However, after the Joseph Manigault house and Heyward-Washington house campaigns, it became apparent that this strategy of purchase-and-conversion was expensive and would only save a limited number of the city’s historic landmarks. As local resources proved insufficient, preservationists began to seek out northern capital to assist in preserving Charleston’s historic buildings. As Historian Robert Weyeneth notes, “the reliance on such benefactors reflected the fact that many Americans, not just South Carolinians or southerners, could attach significance to the uniqueness and beauty of the city’s architectural heritage.”

In 1931, local preservationists turned to the American Institute of Architects (AIA) for assistance, and as a result, the AIA established an informal committee to publicize the necessity of preserving Charleston’s historic architecture. The committee consisted of interested local citizens whose efforts focused on discouraging oil companies from constructing filling stations in historic areas, furthering the ongoing work at the Joseph Manigault and Heyward-Washington houses, and promoting municipal planning and zoning. These citizens worked with nationally prominent individuals in the fine arts to encourage preservation within the city.

In April of 1929, the Chamber of Commerce and the city council temporarily established a city planning and zoning commission. The commission was authorized to regulate and approve construction of new

88 Ibid., 265.
89 Ibid., 265-266.
90 Ibid., 269.
manufacturing plants, schools, and gas stations in older areas of the city.\textsuperscript{91} Compromised of influential volunteer citizens including Albert Simons, soon to be mayor Burnet Maybank, and Allston Deas, president of the Preservation Society during this time, the council established the committee to create a zoning ordinance for the city. The committee functioned as “architects and geographers of the city’s public memory,” notes author Stephanie Yuhl.\textsuperscript{92} Known as the Special Committee on Zoning, the committee created a temporary ordinance that prohibited filling stations, auto repair shops, and factories in a portion of the city south of Broad Street. The committee recommended professional assistance to prepare a fully adequate ordinance, and in October of 1930, the city council interim zoning commission was reconstituted with new legal authority, having the former members of the special committee as the new commissioners.\textsuperscript{93}

The council sought professional assistance from the Pittsburgh firm of Morris Knowles to develop a comprehensive zoning ordinance as well as to provide recommendations for a city planning document. The firm suggested a set of use and height restrictions as well as the creation of a historic district. Along with Albert Simons and other planners, the firm conducted a survey to map buildings within the city constructed before the mid-eighteenth century. Simons and other planners assumed that these colonial, federal, and antebellum structures

\textsuperscript{92} Ibid.
\textsuperscript{93} Weyeneth, 270.
were “practically all that is of historic and architectural interest,” remarked Simons in February of 1931.  

One of the reports presented by Morris Knowles to the commission in July of 1931 offered predictions about the city’s population trends and assessments of where new transportation routes, schools, playgrounds, and parks should be constructed in order to accommodate manageable growth consistent with the zoning ordinance and city plan. The report presented one of the city’s earliest attempts in considering long-term urban growth. Although the city failed to adopt a formal city plan as a result of this report, in October of 1931 the city ratified the general zoning ordinance that included a small but essential section on historic preservation. The National Park Service notes that “the blending of planning and preservation goals was unique and a revolutionary concept for its time.” For the first time in the United States, a group of collective buildings, not just individual structures, was designated as significant and worthy of protection.

In the 1920s, many American cities began to enact local laws regulating property use, supported by the U.S. Supreme Court decision in Village of Euclid v. Ambler Realty that held zoning to be a valid municipal power. However, Charleston’s zoning ordinance was considered unique because of its provisions on protection of historically significant architecture. Originally, Article X of the ordinance designated a portion of the city as the Old and Historic District. Currently, in Sec. 54-230 of Part 6 Old and Historic District and Old City District Regulations, the purpose of the district is provided as follows:

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94 Ibid.
95 “Charleston & Preservation,” 2.
96 Ibid.
In order to promote the economic and general welfare of the city and of the public generally, and to insure the harmonious, orderly, and efficient growth and development of the municipality, it is deemed essential by the city council of the city that the qualities relating to the history of the city and a harmonious outward appearance of structures which preserve property values and attract tourists and residents alike be preserved . . . that such purpose is advanced through the preservation and protection of the old historic or architecturally worthy structures and quaint neighborhoods . . . which serve as visible reminders of the historical and cultural heritage of the city, state, and nation.97

The ordinance established the Board of Architectural Review (BAR), compromised of representatives from the City Planning and Zoning Commission, the AIA, the American Society of Civil Engineers (ASCE), the Charleston Real Estate Exchange, and the Carolina Art Association. Under the ordinance, the BAR had regulatory authority over changes to exterior features of buildings within the district. In the beginning, the BAR sought to play an “advisory rather than disciplinary role” to gain acceptance within the community.98 Albert Simons noted that the BAR operated like a “free Architectural Clinic,” providing such services as dispensing sketches of appropriate alterations or recommending paint colors.99

By the standards of the time, the area of the BAR’s area of jurisdiction was considered fairly large, but it was rather limited in comparison to the present size of the historic district. The actual Old and Historic District consisted of a small portion of the tip of the peninsula south of Broad Street, bounded by East Bay Street, South Battery, Lenwood and Logan Streets to the west. The most

98 Weyeneth, 272.
99 Ibid.
significant element that made the ordinance unique was not the size of the district but that it sought to preserve a whole neighborhood rather than individual buildings. This new approach to the protection of historic architecture would “come to define the modern preservation movement,” notes Weyeneth.\textsuperscript{100}

However, there were still no regulations prohibiting homeowners from razing historic buildings anywhere in the city, including the historic district. It was not until 1959 that the BAR gained the power even to delay demolitions, and in 1966, it gained authority to prohibit demolitions altogether.\textsuperscript{101} The Old and Historic District was also designated on the National Register of Historic Places in 1966, and city council vote to expand the its boundaries, nearly tripling its former size, extending it to an east-west line that included one half of the peninsula’s land mass.\textsuperscript{102}

As the South Carolina Department of Transportation (SCDOT) sought to expand the highway system west across the Ashley River in 1970, preservationists in the city feared the expansion would have a devastating effect on the district. After the determination by the Advisory Council on Historic Preservation that this project would have an adverse effect, the SCDOT terminated the bridge improvement to the edge of the Ashley River at the end of Calhoun Street, away from the historic district boundaries. Struggles such as these identified the need for a more comprehensive understanding of the city’s resources. For the first time since the 1940s, a survey and plan was created in 1974 with an architectural inventory, a ranking of buildings, and an area plan that was available to the

\textsuperscript{100} Ibid.
\textsuperscript{101} Ibid.
\textsuperscript{102} Charleston & Preservation, 4.
public. The Feiss-Wright-Anderson Survey and Preservation Plan became the primary document for planning and zoning efforts on the peninsula. In addition to recommending stronger enforcement of building codes and height restrictions as well as downtown revitalization strategies, the plan prompted the city council to extend the BAR’s control farther up the peninsula. ^103 Numerous cities across the United States have followed Charleston’s example. By the 1970s, over two hundred cities had enacted similar ordinances, and by the 1990s, more than eighteen hundred preservation ordinances had been implemented throughout the nation. ^104

A significant development in South Carolina that arose in the 1960s and 1970s was the practice of urban archaeology. Within the state, urban archaeology began not in the larger cities but rather in the small town of Camden. Historical archaeologist Kenneth Lewis conducted a study that examined spatial patterning and site activities and determined characteristics of the town reflective of Camden’s role as a frontier town in the eighteenth century. A major element of Lewis’ research was the rise of urban centers, studying concepts of urbanization and landscape evolution. ^105

Another early urban archaeology project in the state was Charles Towne Landing, Charleston’s first permanent settlement (c. 1670-1680). Archaeologist Stanley South began research in 1968 and conducted extensive excavations of the site. Much of South’s work, however, focused not on the daily life of settlers but on the military aspect of the settlement. Archaeologist Dan Elliott of the LAMAR

^103 Ibid.
^104 Weyeneth, 273-275.
^105 Stine, 162-163.
Institute researched “lost” colonial towns along the Savannah River in Georgia and South Carolina and also surveyed the site of Jamestown in Berkeley County, South Carolina, located a little over forty miles north of Charleston. Other excavations in South Carolina included sites in Beaufort County and the town of Laurens. Additionally, the South Carolina Department of Highway and Public Transportation surveyed several corridors in small towns and sites throughout the state.106

In Charleston, John Milner conducted a number of excavations in the 1960s, and in the 1970s, Stanley South and Richard Polhemas excavated delft pottery along the waterfront. Elaine Herald of the Charleston Museum excavated several sites in the late 1970s, the most extensive of which was the Heyward-Washington house, spanning four years and uncovering thousands of artifacts. During the late 1970s and early 1980s Charleston experienced a period of federally-funded Urban Renewal projects in downtown that required archaeological mitigation. The Charleston Museum has administered many of these federally-funded projects, first with Herald, and since the 1980s with Martha Zierden, current Curator of Historical Archaeology. In addition to the Charleston Museum, a number of firms have worked on these projects, such as Gilbert/Commonwealth of Michigan who conducted excavations of the Post Office and Courthouse Annex, New South Associates who excavated the eighteenth-century courthouse as well as a number of other sites, and Garrow &

106 Stine, 163.
Associates who surveyed a portion of the peninsula that would have been affected by the construction of the proposed Cooper River Bridge.\textsuperscript{107} The majority of these federally-funded excavations were located in the historic core of Charleston, an area primarily used for both commercial and domestic activities since early settlement. However, it is important to note that federally-funded excavations have been conducted outside downtown Charleston in the tri-county area. Essential components of the research included identification of the processes that formed the archaeological record, definition of the temporal patterns of site occupations, study of site function and socioeconomic status, and dietary studies.\textsuperscript{108} These projects revealed that urban sites in Charleston are deep and extremely varied in types and quantities, and ultimately are highly complex.\textsuperscript{109}

The numerous excavations in downtown Charleston became the basis for a citywide archival study completed in 1984 to examine the adaptation to the urban environment in Charleston. Elaine Herald initiated the preparation of this study in 1980, and the project was carried out by Martha Zierden and Jeanne Calhoun. Using archival records as a source for surveying archaeological resources of the city, Zierden and Calhoun suggested questions for the long-term study of the adaptation of the urban environment. Key archival documents relevant to the research included those that gave insights into the formation of adaptive patterns and the way in which they are exhibited within the community. To understand

\textsuperscript{107} Ibid., 163. \\
\textsuperscript{108} Ibid. \\
\textsuperscript{109} See Appendix A for examples of a few notable archaeological excavations in Charleston provided to offer a better understanding of the variety of sites investigated and the diversity of the historic and archaeological remains uncovered in the city.
social variability within the city, research concentrated on factors such as population demography, income ranges, occupation, and social and ethnic classes. In reference to the material and economic world of Charleston, research focused on the city’s economic system, the range of activities in the commercial sector of Charleston’s population, local production of goods, the variety of imports available to citizens, and the mechanisms of distribution and exchange in the city. Additional research studied the physical formation of the archaeological record and included factors such as the physical landscape of Charleston, patterns of growth and development within the city, location of activity areas, and the nature of the physical environment prior to utilization. Furthermore, studies of the archaeological record focused on physical contributions such as spatial distribution of features, architectural styles and building construction methods, disposal and sanitation practices, and cultural and natural disasters. \(^{110}\)

The first survey focused on the portion of the city occupied in the eighteenth century and on the city’s economic activities. Research during excavations covered several topics, including site formation processes, site function, status variability, urban subsistence strategy, spatial patterning, the development of socially definable neighborhoods, rural and urban contrasts, and the archaeological record of urban slavery and the free black population. Resumed in 1987, the second study focused on the development of residential suburban areas in the late eighteenth century to the late nineteenth century,

\(^{110}\) Stine, 163-164.
physical changes to the city in the late nineteenth century, as well as studying the
city’s African-American and European immigrant populations.\textsuperscript{111}

Since the 1960s, archaeological research has been conducted on over
thirty different sites within the Old City District and Old and Historic District, a
few of which have been excavated numerous times. Although there have
archaeological projects conducted outside the districts, for the purpose of this
study only excavations within the districts are documented. Findings from all of
these projects have greatly contributed to providing a better understanding of the
physical, economical, and social evolution of Charleston since the colonial era.
The map below shows the location of past excavations in the Old City District and
Old and Historic District.\textsuperscript{112}

\begin{footnotesize}
\textsuperscript{111} Ibid., 164.
\textsuperscript{112} See Appendix B for a detailed matrix of findings uncovered during excavations.
\end{footnotesize}
These sites can be categorized into two distinct groups, the first of which is residential-commercial sites, or dual sites. These are primarily located in portions of the city that have been utilized for commercial activities since the early eighteenth century and continue to be commercially occupied through the present.
day. Some of these sites excavated include Charleston Place, First Trident, McCrady’s Longroom, and two public wharf areas, Atlantic Wharf and the Exchange Building.\textsuperscript{113}

The second group of sites is categorized as residential, and with few exceptions, these are located in areas considered suburban during the late eighteenth and early nineteenth centuries. Several of these sites contain extant structures dating from initial occupation and continue to function as residential properties. These projects focus on the study of domestic evolution in Charleston and include eighteenth- and nineteenth-century double houses occupied by Charleston’s elite, as well as middle class sites occupied by artisans and professionals. Double-houses occupied by elites included sites such as the William Gibbes house built circa 1772, the Miles Brewton house built circa 1769, and the William Aiken house built circa 1817. Residences of the elite tended to be in excess of 7,000 square feet, with urban lots over 18,000 square feet, and usually consisted of elaborate dwellings and gardens run by a number of slaves. On the other hand, middle-class residences tended to average 4,600 square feet on urban lots of less than 6,000 square feet, whose residents often rented these properties from the owners and worked elsewhere in the city. Some of these sites include 40 and 60 Society Streets, both dwellings rebuilt on Ansonborough lots after the fire of 1838, and dwellings along President Street, which was developed as a middle-class neighborhood in the nineteenth century.\textsuperscript{114}

\textsuperscript{113} Stine, 164.
\textsuperscript{114} Ibid., 165.
In more recent years, archaeological excavations have revealed significant findings in uncovering Charleston’s past. Some of these very successful projects included the excavations around the new Charleston County Courthouse, completed in 1994, which revealed evidence of the early eighteenth-century moat that surrounded the walled city. Another project, completed in 2005, was the archaeology conducted at City Hall, which is located on what was the Civic Square in the 1680 Grand Modell. Excavations uncovered tens of thousands of artifacts and animal remains, further supporting historical accounts of the site serving as the city beef market throughout the eighteenth century. Hudgins notes that these impressive results from archaeological excavations could be repeated over and over at different sites, but “that will not happen, however, unless Charleston adopts a public policy of stewardship of its archaeological heritage.” Furthermore, as historic and archaeological remains are important links to the city’s past, Hudgins adds “until we take the time to draft a policy that provides for their protection, they are in danger of being lost forever.”

Although there has been an effort by the archaeological community to excavate, there has not been an effort to encourage it pre-construction per-se. It should be emphasized that the investigations described here are only from federal-or state-funded projects, or private development projects with rare interested parties such as homeowners or preservation organizations. Ultimately, however, there is still no legal basis on the local level for requiring archaeological excavations prior to construction. For example, even the Commission of Public

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115 Hudgins, 3.
116 Ibid.
Works can construct projects without any archaeological review, as can private developers and many others. The City of Charleston has no officially designated archaeological office to which residents, developers, or interested parties can turn for assistance, and there is no official city archaeologist. Furthermore, if archaeological evidence is found during construction, there is no mechanism in place to record or protect such artifacts before they are irreparably lost. Martha Zierden notes, “Based on the length and density of human occupation of the urban center, the entire peninsular city may be considered a vast, contiguous archaeological site.”117

In order for the City of Charleston to develop a comprehensive and effective archaeological resource protection ordinance, it is important to look at other jurisdictions that have implemented successful ordinances and programs, and to study essential elements of the procedures to determine which ideas and procedures are best suited for Charleston. Archaeological resource protection can be carried out in a variety of ways. Three communities with different approaches to archaeological resource protection – Alexandria, Virginia and St. Augustine, Florida, as well as Pima County, Arizona – have been chosen to be examined here as case studies. All three jurisdictions specifically address archaeological and cultural resource protection within the public and private sectors and ultimately provide protection regarding development projects that do not fall under federal or state regulations for review of adverse effects on archaeological resources.

These particular jurisdictions were chosen because they represent three distinctly different yet effective approaches to protection of archaeological resources at the local level. Although a number of localities across the United States have implemented some form of protection, such as the communities in Connecticut, Massachusetts, and even South Carolina mentioned in Chapter IV, they did not seem comprehensive enough to cover all of the essential components of an effective system of protection, nor did requirements or procedures seem clearly outlined for the public to follow. For example, while the town of
Wayland, Massachusetts has an archaeological group within its Local Historical Commission that conducts data recovery programs and comments on impacts on archaeological sites to the local board, there is no official ordinance or review process enforced for the community to follow to ensure adequate archaeological resource protection. In South Carolina, for instance, the code of Berkeley County only pertains to any development projects that may potentially affect properties listed on the National Register of Historic Places, therefore overlooking other areas potentially containing significant historic and archaeological resource.

On the other hand, while other localities have protection measures in place similar to Alexandria, Virginia, St. Augustine, Florida, and Pima County, these three communities seem to be the best represent a variety successful approaches to historic and archaeological resource protection. Although the scope of this study pertains to the city of Charleston and not to the county as a whole, many factors were taken into consideration in the decision to include Pima County as a primary case study. Not only do the jurisdiction’s regulations represent a different and effective approach to archaeological resource protection, furthermore, it is important to examine how a broad archaeological protection approach can apply to the city of Charleston regardless of the size of the jurisdiction and how it could possibly extend to the county as a whole in the future.

Both Alexandria and St. Augustine’s ordinances provide archaeological resource maps identifying areas in the city that may yield particular archaeological resources. Alexandria, however, only designates one Historic Resource Area that triggers preliminary archaeological resource assessment,
while St. Augustine’s map identifies three primary zones within the city based on
the potential recovery of archaeological remains, all of which trigger different
mitigation responses. Conversely, Pima County does not designate
archaeological resource areas but rather enforces a county Cultural Resource
Compliance Review Process for public works projects as well as private
developments, which are all subject to certain conditions. It is essential to
examine these different approaches to better understand how they can apply to the
city of Charleston and to determine the most appropriate system for Charleston’s
unique resources.

Alexandria, Virginia

In 1975, Alexandria created the Alexandria Archaeological Commission
(AAC), the first city commission for archaeology in the United States. A
volunteer citizen advisory board comprised of local residents as well as
representatives from organizations such as the Historic Alexandria Foundation
and the Alexandria Chamber of Commerce, the AAC advises the mayor and city
council on matters dealing with archaeological and historic resources in the city.
Responsibilities off the AAC include: establishing goals and priorities related to
the city’s history and heritage; analyzing and making recommendations
concerning archaeology in the city; providing archaeological recommendations to
individuals; and promoting public awareness and participation in archaeological
preservation.118

118 “The Alexandria Archaeological Commission,” Alexandria Archaeology Museum, City of
Another prominent archaeological organization in the city is Alexandria Archaeology, a division of the office of Historic Alexandria and a leader in the historic preservation movement in the 1960s that appointed the city’s first full-time archaeologist in 1974.119 Alexandria Archaeology maintains a repository and archive for over two million artifacts and associated records from the city’s archaeological sites which meet federal and state standards. Additionally, the organization manages the Alexandria Archaeological Collection in perpetuity and to conserve artifacts for research and educational purposes.120 Together with Alexandria Archaeology and the Friends of Alexandria Archaeology, the AAC practices what is known as “community archaeology.” Pioneered in Alexandria, the concept of community archaeology is considered a cooperative effort between local citizens, city offices, private organizations, and public groups, and furthermore is recognized worldwide as a “model approach” to archaeological resource protection.121

The Alexandria City Council enacted an Archaeological Resource Protection code in November of 1989, which established Archaeological Resource Areas for the city and requires assessment of any development projects in protected zones for which site plans must be filed. The intent of the code is “to share responsibility between the city and developers and to reserve archaeological heritage and enhance public appreciation of the City’s past,” according to the

119 Ibid., 2.
Administered through Alexandria Archaeology, the code requires all development projects for which site plans must be filed to be evaluated to determine the potential for archaeological resources to be impacted and, if necessary, preservation actions taken prior to development. Under the code, site developers may be required to undertake research and, if necessary, an archaeological excavation, which must be performed by a qualified archaeological consultant with oversight by city archaeologists. If excavations are conducted, the site developer must provide a site report as well as a public, non-technical document, and recovered artifacts must be donated to a repository for preservation. Even with projects not requiring site plans, such as small additions to private residences, it is recommended that property owners allow city archaeologists and volunteers to excavate prior to construction or to monitor a site during construction.

Pursuant to the Archaeological Protection Procedure, a landowner or developer must request a Preliminary Archaeological Assessment from the city archaeologist prior to applying for development approval. The assessment identifies potential areas of significance within the proposed development project area in order to determine the degree of destruction of archaeological resources by the proposed development. The Alexandria Archaeological Resource Map

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122 Ibid.
123 See Appendix C for the relevant sections of “The Zoning Ordinance of the City of Alexandria, Virginia.”
identifies the potential for archaeological significance in a proposed project area.\textsuperscript{125}

Archaeological Resource Areas are categorized as either land that may have the potential to contain archaeological materials or land where only specific properties may have the potential to contain significant archaeological materials. Nevertheless, if a proposed project which requires a site plan, development special use permit, or erosion control plan falls in either category, the Archaeological Protection Procedure must be followed. Additionally, even if the development proposal falls in land not included in a designated Archaeological Resource Area, site plans, development plans, special use permit plans, erosion control plans, and rezoning requests are viewed for archaeological potential at the time of submission.\textsuperscript{126}

Prior to filing an application for approval of a preliminary site plan required by the code, an applicant must confer with the director of the office of Historic Alexandria of which Alexandria Archaeology is a division, as previously mentioned. The director must conduct the preliminary assessment of the potential archaeological significance of any site plan areas designated on the Archaeological Resource Map, as well as to determine the impact of any proposed ground disturbing activities on such area. Additionally, applicants are required to


\textsuperscript{126} Ibid., 1-2.
provide full and accurate information as to all ground disturbing activities that may be conducted on the development site.127

The preliminary archaeological assessment is based upon five criteria, including research value, rarity, public value, site integrity, and presence of materials. The research value is determined by the extent to which the archaeological data contained on the site would yield and expand educational information. Rarity is determined by the degree of uniqueness of the archaeological resource and its potential in providing information about a significant person, structure, or event for which there is little information available in the city. Public value is decided upon by the level of importance the area has to the community in regards to association with a significant person, structure, or historical event. Site integrity refers to the extent to which the original placement and condition of the archaeological resource has been disturbed or altered, and as a result has experienced a reduction in its research or public value. Lastly, the presence of materials accounts for the extent to which a proposed activity will alter or destroy resources that have already been determined to have significance under the first four criteria.128

If it is determined that at the conclusion of the preliminary archaeological assessment the proposed site plan will have no significant adverse impact on any known or potential archaeological resources, the director of the office of Historic Alexandria reports the findings to the city commission, and no further review is

128 Ibid., 1-2.
deemed necessary. However, if the director determines that a site plan does in fact have potential archaeological significance and that the proposed development will have an adverse impact, the applicant is required to submit an Archaeological Evaluation Report as well as a Resource Management Plan as part of the preliminary site plan application. The Archaeological Evaluation is a report produced by archaeological resource specialists to document the type and location of significant resources, and to determine the extent to which they will be destroyed by the proposed development. The Resource Management Plan is a report and map produced by archaeological resource specialists that recommends measures for preserving significant archaeological resources determined by the Archaeological Evaluation to be in the project area. Mitigation measures may include: excavation; monitoring of construction work; recordation of resources by field notes, measurements and photography; laboratory analysis; and storage of artifacts in a permanent collection.¹²⁹

Today, Alexandria continues to serve as an excellent example of effective archaeological protection measures as well as community archaeology. The office of Historic Alexandria currently has four city archaeologists on staff in the division of Alexandria Archaeology. The agency manages the Alexandria Archaeology Museum, which not only maintains over two million artifacts but also plans efforts to locate, study, and protect archaeological sites in the city, as well as to educate the public, and creates awareness of the importance of archaeological preservation. One of the primary goals of Alexandria Archaeology is to “discover and bring meaning to the city’s heritage by protecting fragile

archaeological material and landscapes in the ground as precious resources in
order that historical integrity is preserved for the future.”\textsuperscript{130}

St. Augustine, Florida

In addition to Alexandria, the city of St. Augustine, Florida also has an
archaeological preservation ordinance and archaeological program, which have
proven to be a great success since their implementation in the late 1980s.

Adopted in 1987, St. Augustine’s Archaeological Preservation Ordinance
mandates that archaeological review become part of the city’s permitting process
for all building, right-of-way, and utility construction projects. The ordinance
designated three primary archaeological zones within the city, each yielding
different levels of significance determined by the area’s historical value and its
potential to contain archaeological remains. Once a project is found to trigger the
criteria established in the ordinance, based on location, depth of excavation, and
size of excavation, the property is investigated for archaeological resources.

During the 1980s, salvage excavation of a site located off the southeast
corner of the central town plaza was subject to public scrutiny as it was in an area
highly visible to tourists and locals. A campaign by professionals, public and
private organizations, and local citizens prompted by an interest in the excavation
was initiated in conjunction with the newly formed St. Augustine Archaeological
Association and resulted in the formation and adoption of an archaeological

\textsuperscript{130} “Alexandria Archaeology Mission Statement,” 1.
In section 6-2 of the “City of St. Augustine Archaeological Preservation Ordinance,” the overall intent of the ordinance is described as follows:

In the preservation and understanding of the historical importance of St. Augustine, there is generally a direct relationship of archaeology to the economic well-being of the city and the present and future needs, public health, safety, morals, and the general welfare of its citizens and its visitors. Further, there is an educational value and benefit to the city that would result from a viable program of archaeological activities and the preservation of related resources.

Furthermore, as the oldest permanent settlement in the United States containing many historically and archaeologically significant areas, it is essential to preserve this unique city.

The ordinance is built into the city’s permitting process and is administered through the city’s Planning and Building Department. Aided by the ordinance, project assessment identifies specific criteria associated with proposed development projects. As previously mentioned, the criteria are location, depth of excavation, and size of excavation, in which the determination of each will trigger a different data recovery procedure. Initially, a proposed project is assessed according to whether or not it occurs in one of three primary archaeological zones throughout the city, which are identified on the Archaeological Base Map. The

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133 See Appendix D for Chapter 6 of “Code of Ordinances City of St. Augustine, Florida.”
purpose of this map is to determine the extent and scope of work for archaeological investigations and excavations that may be required at a given archaeological site.\(^{134}\)

The Archaeological Zones are classified by their levels of sensitivity: Zone I being the most sensitive as it consists of the colonial downtown, followed by Zone II which is considered to contain areas of moderate sensitivity, and Zone III, consisting of areas that are “peripheral to the historic community of the city.”\(^{135}\) The first of the three primary zones, Archaeological Zone I, relates to areas containing the most significant archaeological sites in the city. Within this zone there are five sub-zones, categorized by areas of significance. For example, Sub-zone I-A contains historic resources from the seventeenth through the twentieth centuries, as well as limited prehistoric structures, while Sub-zone I-D contains the original settlement of St. Augustine in 1656. Archaeological Zone II consists of eight sub-zones containing known important archaeological sites such as historic and prehistoric Indian sites as well as plantations and military sites. The last zone, Archaeological Zone III, consists of four sub-zones relating to areas having high potential for historic and prehistoric sites.\(^{136}\)

Once it has been established that a proposed development project occurs within one of these primary archaeological zones, the scope of the disturbance is then evaluated based on the size of the project and the extent of ground-penetrating activities. In order to evaluate whether or not a project will adversely

\(^{134}\) “Code of Ordinances, City of St. Augustine, Florida, Codified through Ord. No. 06-29, adopted Sept. 25, 2006 (Supplement No. 30).”
\(^{135}\) Halbirt, 2.
\(^{136}\) “Code of Ordinances, City of St. Augustine, Florida, Codified through Ord. No. 06-29, adopted Sept. 25, 2006 (Supplement No. 30).”
impact archaeological remains, there is a disturbance matrix based on the criteria
established in the ordinance. Generally, a proposed project will trigger an
archaeological response if it is greater than one hundred square feet in area and
exceeds three inches in depth. If this is the case, the property owner will be
notified and is required to complete an archaeological permit and pay a fee prior
to investigation.  

The type of disturbance and the zone in which the project occurs
determines the extent of the city’s archaeological investigation as well as the cost
to the property owner. Additionally, the extent of an investigation is determined
in large part by whether the project is associated with a single-family dwelling or
a commercial property. Disturbances fall into two categories, minor and major,
which trigger different responses. Developments associated with single-family
dwellings are considered minor disturbances, and a period of two to four weeks is
allowed for an investigation. The same response applies to development
associated with commercial properties in which the affected area is between one
hundred to two hundred and fifty square feet. Commercial properties and utility
rights-of-way in which the impacted area exceeds two hundred and fifty square
feet are considered major disturbances, and anywhere from two to eight weeks
may be allowed for archaeological investigations. Furthermore, all undertakings,
especially those considered to be major disturbances, may be granted additional
time with the approval of the City Manager. 

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137 Halbirt, 2.
138 Ibid.
If a project is considered to be a major disturbance within Zone I, it is subject to intensive salvage archaeology by the city archaeologist prior to commencement of a proposed project. After the disturbance has begun, it is subject to monitoring during construction to provide data and determine the presence of additional resources, and then either testing or salvage archaeology may be conducted. Within Zones II and III, any major disturbances are subject to testing prior to commencement. If it is determined either that there will be significant archaeological impact from a proposed disturbance or if testing reveals that archaeological resources exist, then salvage archaeology may be required prior to commencement of the proposed project as well. While Zone II is subject to monitoring during construction to provide field data and determine the presence of additional resources (if so, additional testing may be conducted), projects in Zone III are subject only to monitoring during construction.\textsuperscript{139}

With regards to minor disturbances within Zone I, a project is subject to testing prior to the commencement of a disturbance. If it is determined that there will be significant impact from the proposed project, or if testing reveals that archaeological resources exist in the area, salvage archaeology may be conducted prior to commencement of the project, after which the disturbance is only subject to monitoring during construction to provide additional field data. On the other hand, minor disturbances occurring in Zones II and III are only subject to testing

\textsuperscript{139} “Code of Ordinances, City of St. Augustine, Florida, Codified through Ord. No. 06-29, adopted Sept. 25, 2006 (Supplement No. 30).”
prior to commencement of the disturbance and to monitoring after commencement of the disturbance.¹⁴⁰

The city’s Archaeology Program evolved with the development of the archaeological ordinance and is partially funded by fees collected from property owners whose projects trigger a response under the ordinance. The fee is a percentage of the estimated construction costs and is based on the archaeological zone in which the project occurs. The fee for Zone I is 1.5% of the estimated construction cost, while the fees for Zones II and III are 1.25% and 1.0% of the estimated construction cost respectively. Additionally, the minimum fee that can be assessed by an estimated construction project is $50.00.¹⁴¹ The intent of the program is to “obtain information relevant to the archaeological and natural deposits that are present on the property as well as to document and protect those resources that may be impacted prior to development via a systematic field approach,” notes city archaeologist Carl Halbirt.¹⁴² The ordinance and program have been very successful in carrying out numerous archaeological excavations throughout the city and in documenting St. Augustine’s past; they continue to have great support among and cooperation with the community.

**Pima County, Arizona**

While both the cities of Alexandria and St. Augustine provide archaeological resource maps to determine necessary responses to mitigate adverse impacts to archaeological resources, Pima County, Arizona incorporates a

¹⁴⁰ Ibid.
¹⁴¹ Halbirt, 3.
¹⁴² Ibid., 4.
comprehensive cultural resource component into its development review process for all public works projects as well as private development projects. As early as 1970, the county began to develop policies to assess the potential impacts of development on historic and archaeological land. Stimulated by newly created federal preservation laws such as the National Historic Preservation Act of 1966 and the National Environmental Policy Act of 1969, public interest in historic preservation prompted the city to formalize preservation policies in 1983 for public works projects, such as road construction or park development, and in 1985, the policies were extended to the private sector under certain conditions as well.

New road construction along the Santa Cruz River near an Indian Reservation in the early 1980s in Tucson, the largest city in Pima County, prompted public concern regarding adverse impacts on archaeological sites. Although it was known that a prehistoric village was present within the vicinity, road construction proceeded and destroyed numerous archaeological remains. The Native American community and the general public demanded suspension of all construction activities until an appropriate data recovery program could be completed. This prompted the City of Tucson and Pima County to adopt resolutions for the protection of archaeological sites in 1983, looking to federal and state preservation statutes for guidance. With the adoption of these resolutions, the city and county accepted responsibility for the assessment of potential impacts to historic and archaeological remains that may be affected by
public works projects. Additionally, these resolutions provided justification for creating the Pima County Cultural Resources Program in 1989 and hiring the county’s first archaeologist.

As previously stated, all projects on county land or county rights-of-way, or on any county-funded project, must comply with the Pima County Cultural Resources Compliance Review Process. The process is comprised of five primary steps including records check, inventory, evaluation, impact assessment, and mitigation. In the first step records are checked to determine if previously recorded resources are in the project area. The potential for finding intact cultural resources in a project area is then assessed, to determine if a cultural resources survey is needed. It may be that a records check will determine that a project area has been surveyed and that nothing was found; however in other cases, the records may indicate that the survey was done so long ago that another one is necessary. In the alternative, a records check may determine that a proposed project area has been so heavily disturbed that a survey is not warranted, and if so, it is recommended that the requirement be waived.

The second step in the process is an inventory, in which a Cultural Resources Survey is conducted. It is required that an on-ground inspection of the proposed project area be performed by either an archaeologist or an architect, or both if necessary. This report documents the presence or absence of all cultural

145 See Appendix E for a complete version of the “Pima County Cultural Resource Compliance Review Process.”
resources in the proposed area. Step three is the evaluation phase, in which the National Register of Historic Places Criteria of Evaluation is applied to the proposed project area. In oversimplified terms, the criteria include whether or not the findings are associated with a significant event, a significant person, a period or method of construction, or yield information important to history or prehistory. All documented cultural resources are evaluated for their eligibility on the National Register of Historic Places, and any resource that meets one or more of the criteria is considered significant and is eligible for listing on the register. However, a resource that does not meet any of the criteria is not considered significant and usually requires no further consideration.147

The fourth step of the process assesses impacts to sites considered eligible for National Register listing. If it is determined that a project will not adversely affect an eligible site, or that the project can be modified to avoid impacting a site, then no mitigation plan is necessary and the project may continue. In some instances, however, a stipulation may be added, such as placement of a conservation easement to ensure sufficient protection of the cultural resources in the area. On the other hand, if it is determined that a development project will adversely affect characteristics of a site that make it eligible for listing on the register, a mitigation plan is required.148

A mitigation plan is the final phase in the review process, identifying all possible measures to minimize harm and ultimately to preserve the significant cultural resources in an area. Options for mitigation can range from a simple

147 Ibid., 2.
148 Ibid.
monitoring plan to a full scale excavation, curation, and report preparation. Further mitigation options include restoration, rehabilitation, or relocation of a proposed project. Throughout the review process professional archaeologists or architects process reports that are reviewed by the Cultural Resources Office.\footnote{Ibid., 3.}

In conjunction with the Cultural Resources Review Compliance Process, any individual applying for a county right-of-way use permit must comply with the county cultural resource requirements. Cultural resource requirements apply to all utility projects that propose to use one thousand feet or more of the county right-of-way. Any projects proposing to use less than one thousand feet of the county right-of-way are not required to comply, unless the right-of-way passes through the limits of a known historic or archaeological site. Utility lines meeting or exceeding the one-thousand-foot threshold require a records check to determine whether a project right-of-way has been previously surveyed and to identify the results of those findings.\footnote{“Cultural Resource and Historic Preservation Office: Laws and Policies.” Pima.Gov., http://www.pima.gov (accessed January 10, 2007), 1.}

A cultural resource survey will be required if the proposed right-of-way has not been previously recorded or if known historic or archaeological sites are in the proposed right-of-way. Professional archaeologists who are permitted by the state museum to work on state lands conduct the resource surveys, and if the survey results in the recording of new significant sites or the re-recording of previously known sites, then consultation with the State Historic Preservation Office may be needed. Additionally, all records checks and survey reports are
submitted to the Pima County Utilities Coordinator, who in turn forwards them to the Cultural Resources Program staff for review.\textsuperscript{151}

In regards to private development, Pima County requires that such developments on private land also comply with the cultural resource requirements under certain circumstances. On private land, there are four situations in which cultural resources compliance must occur: an amendment to the Pima County Comprehensive Plan, county rezoning procedures, site analysis, and grading standards. Like applicants for county public work projects, it is the responsibility of private developers to fund the necessary surveys, assessments and mitigation measures for cultural resources in a proposed development area as part of the development approval process. The process begins with the cultural resources policies as expressed in the comprehensive plan, which is the primary document upon which county land-use regulations are based.\textsuperscript{152}

The preservation policy set out by the county government in 1983 was extended to the private sector in 1985 by incorporating the regulations into the county’s zoning and grading requirements. The Rezoning Ordinance and the Site Analysis Process require the identification, recording, and evaluation of historic properties, as well as a mitigation plan if warranted. Development parcels exceeding five acres for residential purposes, and commercial developments exceeding one acre, are subject to site analysis requirements. Parcels that are rezoned become subject to certain conditions and site plan regulations in order to minimize adverse impacts to cultural resources. If such conditions are violated,

\textsuperscript{151} Ibid.
\textsuperscript{152} Mayro, 24.
the developer is subject to zoning violation fines, retention of bond assurances, or the revocation of permits. With regards to the grading ordinance, grading and construction of any subdivision or commercial development project cannot begin until cultural resource mitigation is identified and performed. A grading permit may be issued only after appropriate mitigation measures are taken by permitted consultations under contract by the developer. Mitigation may include such measures as in-place preservation in designated open space preserves, donation of archaeological sites to conservation organizations, or documentation and adaptive re-use of historic buildings. Further mitigation may be fostered by covenants, deed restrictions, or homeowner regulations.153

Conclusion

All three jurisdictions illustrate that effective historic and archaeological resource protection measures can be carried out many different ways. No one system fits all archaeological or political environments. Alexandria’s and St. Augustine’s archaeological resource maps significantly contribute to the identification of areas of potential impact to cultural resources. On the other hand, Pima County’s approach of applying the Cultural Resource Compliance Review Process, not dependent upon location but rather on the type and scope of the project has also proved to be a very effective tool in mitigating impacts of development projects on cultural resources. In becoming familiar with how successful protection measures can be implemented at the local level provides Charleston with a better understanding in determining the most suitable approach

153 Ibid., 24-25.
for the city. The following table compares the three systems in terms of zone use, triggers, and procedural requirements.

Table 1.1 Archaeological Resource Protection Program Comparison

<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Alexandria, VA</th>
<th>St. Augustine, FL</th>
<th>Pima County, AZ</th>
</tr>
</thead>
</table>
| **Number of zones to which the ordinance applies** | 1) Primary archaeological resource zone  
2) Land not included in zone | 1) Zone I: Highest sensitivity  
2) Zone II: Moderate sensitivity  
3) Zone III: Peripheral Areas | N/A |
| **Scope of the ordinance or process: what triggers the protection procedure?** | 1) Any development projects in which site plans, special use permits, or erosion control plans are required  
2) Any development projects in which site plans, special use permits, or erosion control plans are required are still viewed at time of submission, but procedure is not mandatory | **Disturbance Matrix**  
*Major*: Projects associated with commercial properties or utility rights-of-way in which impacted area exceeds 250 sq. ft.  
*Minor*: Projects associated with single-family dwellings and commercial properties in which impacted area is 100-250 sq. ft. | 1) All projects on county land, county rights-of-way, or county funded projects must follow Cultural Resources Compliance Review Process  
2) Private development under certain circumstances. |
| **Procedural Requirements & Discovery Provisions** | 1) Preliminary Archaeological Assessment is conducted based upon five criteria: research value, rarity, public value, site integrity, presence of materials  
2) If potential for archaeological significance is found, an Archaeological Evaluation Report and Resource Management Plan must be submitted as part of preliminary site plan application to determine necessary mitigation measures. | **Major Disturbance**  
Zone I: Subject to intensive salvage archaeology prior to commencement and monitoring during project.  
Zones II & III: Subject to testing prior to commencement and monitoring during project.  
Zone II: Additional testing may be conducted if necessary.  
**Minor Disturbance**  
Zone I: Subject to testing prior to commencement and salvage archaeology may be conducted if necessary. Also subject to monitoring during project  
Zones II & III: Subject to testing prior to and monitoring during commencement. | **Cultural Resource Compliance Review Process**  
1) County Developments  
   a) Records Check  
   b) Inventory  
   c) Evaluation  
   d) Impact Assessment  
   e) Mitigation  
2) Private Developments  
   a) Rezoning and Site Analysis require identification, recording and evaluation of historic properties.  
   b) Grading of any subdivision or commercial development project requires cultural resource mitigation.  


CHAPTER EIGHT
CONCLUSION

In determining the most appropriate archaeological protection approach for the city of Charleston, it is important to analyze essential elements of each jurisdiction’s methods, comparing both effective components as well as major drawbacks. Furthermore, taking into consideration the historic and archaeological assessment of Charleston’s cityscape as previously discussed, is essential in evaluating how these approaches can be successfully applied to Charleston. Having a better understanding of what each jurisdiction’s archaeological protection measures has to offer and how it can be integrated into Charleston’s existing cityscape will ultimately establish how Charleston can successfully administer effective archaeological resource protection in the city.

As examined in the previous chapter, Alexandria’s Archaeological Resource Areas map has one primary zone that covers the city’s most historic areas, while all land outside this zone is considered a secondary zone. This mapping system could be very beneficial for Charleston for several reasons. The principal zone of Alexandria’s map consisting of the historic downtown is similar to Charleston’s Old City District and Old and Historic District, which encompasses the early settlement of Charleston and the development of the city throughout the peninsula. Previous archaeological excavations in Charleston have uncovered countless significant historic and archaeological remains spanning from the late seventeenth century through the twentieth century. In studying these
excavations, it is evident that these remains have been found in various areas
throughout the peninsula, not just in concentrated areas of the early development
of Charleston. Since all of these cultural remains spanning several centuries are
integral in providing a better understanding of the history and development of the
city, it does not seem appropriate to designate a certain area to be of higher
importance and in need of more protection than another area.

In addition to the importance of Alexandria’s map covering a wider range
of land, it seems that the city would be more likely to seriously consider this
approach as its simplicity and straightforwardness allows for a smoother and more
feasible integration into existing city regulations. An appropriately sized
archaeological division specifically designed for the administration of the
program by city archaeologists and other qualified professionals, also allows for
the proper management without putting responsibility on other departments.
Furthermore, this less complicated approach also facilitates adequately educating
the public on the process; when the public has a clearer understanding of the
process and of their responsibilities, and of the importance of protecting their
city’s historical and archaeological resources, they are more likely to support it.

In contrast to Alexandria’s principal archaeological resource zone,
St. Augustine’s map with three primary zones offers a very different approach.
These distinct zones, all with different levels of sensitivity and all triggering
different responses, may facilitate easier identification of areas potentially
containing significant cultural resources; it could be argued that considerably
more valuable artifacts dating from the earlier settlement and colonial period have
the potential to be discovered closer to the tip of the Charleston peninsula. Therefore, archaeological resource zones could be set up in Charleston similar to St. Augustine’s map. For example, Zone I would consist of the southernmost peninsular area containing the highest level of sensitivity, thus triggering the strictest responses in terms of protection measures, while Zone II could consist of land outside the core area, and Zone III could cover the land furthest from the peninsula. However, as previously discussed, significant historical and cultural remains have been found throughout the peninsula and all greatly contribute to the evolution of the city. Furthermore, since past excavations in Charleston have not been evenly conducted throughout the peninsula, it would be difficult to determine appropriate zones and levels of sensitivity as St. Augustine’s map has done. Subdividing the city in this way makes inappropriate presumptions about both the precise location and the relative importance of Charleston’s various archaeological resources.

In terms of administration and public involvement, St. Augustine’s stratified approach has limited advantages. If this multi-zone approach was applied to Charleston, it might be easier for the community to adhere to the regulations since the multiple zones would let a potential buyer or developer know the statistical likelihood of finding something and what that something might be. However, the multi-tier system itself does not necessarily allow for easier identification of potentially affected areas, but rather it is the research necessary to accurately predict the findings in order develop the zones that might do so. The likely very extensive amount of research and time necessary to
appropriately determine the zones may be seen as a considerable drawback. Furthermore, since all three zones each constitute different levels of sensitivity and trigger different responses, this complex system would be much more complicated to follow, therefore it may be less likely for the public to accept it if they do not have a clear understanding of the process.

Although Pima County’s approach does not follow a mapping system, it could still be considered effective approach carried out in a different way. The fact that the Cultural Resource Compliance Review Process is based on the nature and scope of the potential development rather than on the location of the project is significant because it treats as equal projects throughout the whole county, not only certain locations. It is very important that all development projects on government land, governmental rights-of-ways, or government-funded projects are reviewed for potentially containing cultural resources regardless of the location of the project. However, the major issue with basing cultural protection measures solely on the nature and scope of the project rather than on the location of the proposed project is the that there is still a great potential to overlook cultural resources impacted by minor projects which are not government-affiliated or do not meet the requirements for review under private development. Since the primary component of the Pima County review process pertains to county-related development projects, requirements would very be straightforward and it would be the responsibility of the county to follow such regulations rather than individual citizens. While it is important to note that private developments under certain circumstances must still adhere to the Cultural Resource Compliance
Review Process, these circumstances, such as developments involving rezoning procedures and grading ordinances, may be difficult to regulate. This approach is complicated not only because of the many stipulations that must be taken into consideration, but also because the lack of a map creates difficulty in accurately conveying areas potentially containing significant historic and archaeological resources.

After careful review and consideration of a diverse range of archaeological resource protection measures in the United States, as well as an archaeological and historical assessment of Charleston’s cityscape, the most suitable approach in providing sufficient protection at the local level in Charleston is an ordinance and mapping system similar to Alexandria, Virginia. The key factor in the efficiency of Alexandria’s map is that the primary zone covers the city’s central historic area as a whole, not leaving any room for overlooked sites or misunderstandings in the interpretation and significance of sites. Although St. Augustine and Pima County do have effective approaches in certain ways, it is evident that there is still room for improvement for both jurisdictions in order to fill in the potential gaps and provide more thorough and complete protection of their cultural resources. It is proposed that two distinct zones be created within the city, one zone compromised of land within the Old City District and the Old and Historic District spanning up the peninsula to Line Street, while the second zone consists of land outside the districts but within the city limits, both adhering to the review requirements set forth in Alexandria’s ordinance. The following map illustrates the Old City District and Old and Historic District.
Additionally, it is crucial to note that land outside these districts is still be taken into consideration when determining potential impacts to archaeological and historic resources. One danger of the single-primary-zone approach, much like Charleston’s approach to above-ground resource protection, is the lack of
meaningful review for projects outside the zone that do, in fact, have substantial impacts on cultural resources.

It is recommended that an archaeological division be created within the City of Charleston government with city archaeologists and qualified professionals to properly administer the program; the primary responsibilities of this division would be management and review of development projects potentially affecting historic and archaeological resources of the city. While this archaeological division will serve as the principal agency for managing the program and guiding the public in their responsibilities, the division will work in conjunction with the Charleston Museum, which will provide additional assistance and protection through public education, as well as by functioning as the main repository for conservation of artifacts. As numerous archaeological sites further away from the peninsula are currently in research phases, it is clear that increased awareness on the historical and archaeological significance of these areas is being brought forth. Implementing sufficient and effective archaeological protection measures for Charleston provides the city with the opportunity to capture and preserve its unique cultural heritage to its fullest and to match its success in preservation of the built environment.
Appendix A

Archaeological Excavations in Charleston

**Heyward-Washington House**

One of the earliest major archaeological excavations in the city was conducted at the site of the Heyward-Washington House located on 87 Church Street. Administered by Elaine B. Herald with the Charleston Museum, extensive historical, archaeological, and architectural research was conducted on the property from 1973-1977. Although historical research had been conducted prior to this project, no primary documentation on the building date of the house existed, nor were there any family records or diaries, or any information the kinds of personal and household goods. All of this information would greatly contribute to a more accurate interpretation of the eighteenth-century dwelling and property, as it was and is presently operated as a museum.

Archaeological research began with the excavation of the cellar under the kitchen building, which had once been a functioning but was eventually filled with refuse and dirt by later inhabitants. Upon completion of excavations under the cellar, the yard area between the kitchen and the main house was excavated. Additionally, excavation extended to the area between the east end of the carriage house and the main building, a trench down the driveway, an area in front of the brick house on either side of the front door, and a small area inside the cellar door of the house at the foot of the cellar stairs. All recovered artifacts were returned to the museum for washing and field cataloging.

Excavation uncovered architectural evidence of two earlier houses on the property, one frame and one brick. Footings made of brick for the walls of the original house, which burned in 1740, were discovered. Evidence revealed that the house was located along the front of the property, butting against the property line to the south, and that the house was twenty-four feet long by eighteen feet deep. Three wells were also uncovered during excavation, in which architectural evidence revealed that they were all constructed differently. The earliest well had casing made of barrels, the next one had a square wooden box framing with a barrel casing inside, while the third well was the more common brick well. One of the most interesting architectural discoveries was the evidence of the base of a brick structure, which appeared to be a type of furnace and a forge once covered by a frame structure supported by posts. This evidence suggests that early eighteenth-century occupant John Milner operated his gunsmithing business

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155 Ibid., 3.
behind the main house, which is further supported by numerous gun parts and locks found in the vicinity.156

More than 88,000 artifacts were recovered during these excavations including dishes, glassware, and various other household items from eighteenth and early nineteenth-century residents. Artifacts uncovered from the Heyward occupation in the last quarter of eighteenth-century included creamware, high quality Chinese export ware, glassware, and Colono-ware. Recovered artifacts from early nineteenth-century occupation as a residence for the Grimke family, as well as a boarding house until the mid-nineteenth-century, included blue and white transfer printed pearlware, patterned glassware, bone toothbrushes, and a variety of clay pipes. The report concludes that the collection of artifacts “represents the first well-documented sampling of the range of artifacts utilized by eighteenth-century Charlestonians. From them we have some idea of the taste of a craftsman’s family in the early part of the century, and more prosperous planter’s family of the Revolutionary period.”157

Vendue/Prioleau Project

Conducted in 2000 by New South Associates of Stone Mountain, Georgia, the Vendue/Prioleau project examined the evolution of Charleston’s early waterfront. The site excavated the area bounded by Waterfront Park, Vendue Range Prioleau Street, and Mid-Atlantic Wharf. The excavations revealed the construction and form of early wharves, the process and material used in land filling, and the architectural adaptations used for building on fill.158

Historically, the site had been used for wharves, which were an integral part of the colonial city as a major port. During the eighteenth and nineteenth centuries shops and offices relating to the shipping industry such as maritime crafts shops, factors, and grocers lined Vendue Range. Besides a few brick buildings on Vendue Range built in the beginning of the nineteenth-century, most of the structures present on the site were large warehouses by the late nineteenth-century. However, when rail lines were placed through properties around the turn of the twentieth-century, many warehouses were destroyed. Land where archaeological research was conducted was almost completely underwater until the late eighteenth-century when there appears to have been some infill along the present day Vendue Range. Prioleau Street was established by 1798, and the land was gradually filled throughout the nineteenth-century. By the beginning of the

156 Ibid., 5.
157 Ibid., 13.
twentieth-century, the majority of the land was completely above the water line.\textsuperscript{159}

Excavation in an area perpendicular to Prioleau Street and south of the intersection with North Atlantic Wharf revealed a series of wooden beams stacked in a criss-cross fashion. Archaeological research suggested that the structure was most likely used as a raft-like support system onto which a warehouse could be constructed in unstable fill soil conditions. It was determined that the presence of the raft, built during the latter part of the nineteenth-century, within the landfill indicated that land reclamation and building construction occurred simultaneously. By the nineteenth-century, the demand for building space along the waterfront was so high that as land was reclaimed, the substructure was placed for subsequent construction.\textsuperscript{160}

In addition to findings of the architectural filling of the waterfront, the excavations uncovered three eighteenth-century wharves along the waterfront. The three wharves were all thought to have been built of the same type of cobb construction, however, the architectural details of each were very different. Two of the wharves were constructed of palmetto logs, one of which was of notch style, while the discovery of a carved palmetto log suggested that the second wharf was connected with the pegs. Additionally, both wharves were filled with ballast stones, and the first wharf also contained large amounts of clay and other materials in its fill. The third wharf uncovered was very different in construction from the others. The tight construction of the wharf, built of red cedar beams and planks connected with pegs, all supported by a series of vertical pilings, suggested that it was a crib style wharf rather than cobb, meant to hold earth rather than stone.\textsuperscript{161}

Research concluded that, while this was only a small sample, the earliest Charleston wharves were in fact built of crib rather than cobb construction. Although the cedar wood construction would have been more expensive than the readily available palmetto logs, cedar lasts longer, which would be necessary to retain earth, rather than stone fill. Furthermore, the report determined that the shift from crib to cobb construction of wharves may have occurred during the third quarter of the eighteenth-century, perhaps as a result of increased shipping in Charleston, which would have required additional ballast stone, and making it more readily available for use in wharf building and allowing for the more open cobb construction.\textsuperscript{162}

\textsuperscript{159} Ibid.
\textsuperscript{160} Ibid., 43.
\textsuperscript{161} Ibid.
\textsuperscript{162} Ibid., 44.
Another notable excavation was administered by the Charleston Museum in 1998 in Ansonborough, Charleston’s first suburb, developed in the mid-eighteenth century. The site excavated, 66 Society Street, in an area bounded by King, Wentworth, Anson, and Calhoun, was part of a land grant in 1696; however, development did not occur there until the 1740s when the area was surveyed and subdivided. The site represents a lesser known aspect of Charleston’s history – the evolution of a middle class property – and the excavation was the first middle class status, domestic household with a late eighteenth-century and early nineteenth-century component investigated archaeologically in the city.

Between 1795 and 1838, one house (or possibly two) was constructed on the site, although it burned in the fire of 1838 and was replaced by the house presently on the property. Mr. T. Hieronymous built the current brick structure after the fire, and in 1847, Martha Roper, a planter and the granddaughter of Henry Laurens, purchased the house and renovated it to function as a rental property. The property was also used as a boarding house in the latter part of the nineteenth-century, and was owned by a number of entrepreneurs in the twentieth-century.

Archaeological fieldwork over a three-day period uncovered eighteen separate provinces spanning the late eighteenth and early nineteenth centuries. Materials recovered were categorized into distinct assemblages: a pre-1830 assemblage and a post-1830 assemblage. Approximately thirty percent of artifacts found in the pre-1830 assemblage were kitchen materials, primarily ceramics such as creamware, pearlware, and locally manufactured Colono-ware, as well as glass and tin can fragments. The mean ceramic date for this assemblage was 1796, supporting historical evidence of a structure on the lot by 1795. An overwhelming majority of architecture was found in this assembly, compromising over sixty five percent of materials recovered, including an abundance of flat glass and nails.

In the post-1830 assemblage, however, the majority of artifacts were kitchen materials, compromising seventy percent of the group. An interesting difference in this assemblage was that while in the pre-1830 assemblage the majority of ceramics was fine Chinese types, over seventy percent of ceramics in

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164 Ibid., 51.
165 Ibid., 46.
166 Ibid., 16.
167 Ibid., 31-33.
168 Ibid., 47.
169 Ibid., 35.
this group was British or American-made and of lesser quality. Another striking difference was in the glass group, as the amount of olive colored wine bottle sherds decreased from forty-three percent to a little over three percent. Additionally, the quantity of tin cans, commonly used by the 1860s was eight times as many as in the pre-1830 assemblage, indicating an increased use of processed and preserved foods. While architectural remains compromised over sixty five percent in the first assemblage, they compromised only a little over twenty six percent in this assemblage.\footnote{Ibid., 37-39.}

The results of the excavation revealed a substantial inverse relationship in the amounts of kitchen and architectural artifacts, suggesting different activities and site formation processes during the two occupations. The high percentage of architectural material in the pre-1830 assemblage may be the result of the house burning in the 1838 fire, while the post-1830 assemblage may be considerably less because the structure occupied during this period is still extant. The report noted that the assemblages revealed more of a townhouse profile rather than dual function profile. The extremely low percentage of the activities group, reflecting the lack of craft or commercial activities, further supports this profile.\footnote{Ibid., 47.} This excavation supports the notion of middle class residents eventually working away from home, as the report notes that “separation of home and work place was a major nineteenth-century social change and is clearly associated with development of modern urban life.”\footnote{Ibid., 51.}

\textit{City Hall}

A more recent excavation was the archaeology at City Hall, located on land designated as a Civic Square on the 1680s Grand Model that served as the city market through the eighteenth-century. Conducted by the Charleston Museum in 2005, the excavation resulted in three distinct artifact assemblages ranging from the late seventeenth-century through the end of the eighteenth-century, and produced over twenty five thousand artifacts. Even more integral to the excavation was the uncovering of over 30,000 animal remains, therefore concluding that the area in fact became the city’s beef market.\footnote{Martha Zierden and Elizabeth J. Reitz, \textit{Archaeology at City Hall: Charleston’s Colonial Beef Market, The Charleston Museum Archaeological Contributions 35} (Charleston, S.C.: The Charleston Museum, 2005), 110.}

The northeast corner of Broad and Meeting Streets was set out as an informal square in 1692 across Meeting Street from the city gate. A market building was constructed in the 1730s but was replaced in 1760 by “a neat building supported by brick arches and surmounted by a belfry.”\footnote{Ibid., 2.} The report notes that this second structure corresponds with a change in name, if not
function, from a generalized city market to “the Beef Market” and the construction of additional markets on the waterfront. Throughout the eighteenth-century, the market square was the commercial and social center of Charleston. The intersection became an even more integral component of the city when St. Michael’s Episcopal Church and the State House were built on the southeast and northwest corners in the mid-eighteenth-century. Broad Street gained a more professional role after the market was destroyed by fire in 1976, and in 1804 a new beef market was built on present day Market Street.\footnote{Ibid., 2-3.}

As previously mentioned, the artifact assemblages were categorized into three distinct periods, the earliest of which was the Market Square, from 1690 to 1739. Overall, the artifact assemblage was relatively small – less than one thousand remains – and produced a mean ceramic date of 1725.\footnote{Ibid., 67.} The second period, the Early Market Building, spanned from 1739 to 1760 and produced significantly more materials than the first period. Nearly thirteen thousand artifacts compromised this assemblage, dominated by kitchen materials and bones, which were more fragmentary than in the first assemblage.\footnote{Ibid., 72.} The third period, considered the Beef Market from 1760 to 1796, encountered no proveniences later than circa 1802 during interior excavations, and produced over eleven thousand artifacts.\footnote{Ibid., 78.}

The most significant discovery during this excavation was the substantial amount of animal remains recovered. The first assemblage produced over thirteen hundred specimens, while both the second and third assemblages produced considerably higher numbers, approximately thirteen thousand and sixteen thousand, respectively.\footnote{Ibid., 110.} The report concludes that research “provides additional data from an eighteenth-century market that expand[s] our understanding of the circulation of food stuffs in the city and the relationship between meats available from markets and those used by households.”\footnote{Ibid., 117.} Furthermore, the study provides a better understanding of the commercial role of animals within the colonial city.

\textit{Charles Towne Landing}

Archaeology at Charles Towne Landing has provided considerable insight into the Carolinas first permanent European settlement established in 1670. Archaeology was first conducted at the site in 1967 by Stanley South of the South Carolina Institute of Archaeology and Anthropology, and again in 2000 by South and Michael J. Stoner. The 1967 excavation resulted in several significant findings including the original 1670 earthen fortification and palisade walls, the
late eighteenth-century Horry/Lucas House ruins, the 1780 Revolutionary War earthen redoubt, and the only moundless Indian ceremonial center ever found in the southeastern United States. The designation of the Charles Towne Landing State Historic Site by the South Carolina State Park Service in 1999 prompted an eighteen-month excavation beginning in 2000 to further investigate the seventeenth-century settlement, also known as Albemarle Point.\textsuperscript{181}

The 2000 archaeological investigation performed shovel testing to locate concentrations of seventeenth-century artifacts in the northernmost portion of the fortified area of the settlement. Two excavation blocks were created, the first of which led to the discovery of an earthfast “lodging,” which was bordered by a concentration of seventeenth-century artifacts. The second block revealed the full extent of the seventeenth-century artifact areas of concentration.\textsuperscript{182} Artifact assemblages were categorized in three primary assemblages: prehistoric, historic, and proto-historic artifacts. Prehistoric artifacts consisted of material generated by various Indians, while historic artifacts included goods originally manufactured for an expanding European market. Additionally, the proto-historic artifacts consisted on products from a mixture of people, including contact period Indian ceramics such as Colono-Indian Ware and African-American Colono-ware.\textsuperscript{183}

Artifacts recovered spanned three different epochs including the Charles Towne Era, the Revolutionary War Era, and the Plantation Era. Artifacts from the Charles Towne Era included seventeenth-century artifacts such as North Devon gravel-tempered redware, wrought iron nails, delft ceramics, white ball-clay pipe bowls, and Barbadian redware, totaling over 1,700.\textsuperscript{184} The Revolutionary War Era identified deposits from domestic occupation, whether by plantation slaves or soldiers, as Hessian soldiers (as they occupied Albermarle Point during this period).\textsuperscript{185} The Plantation Era revealed post-Revolutionary War artifacts from the late eighteenth and nineteenth centuries, including over four hundred ceramics, as well as nails and pipe stems.\textsuperscript{186}

The excavations identified over forty different artifact types from a collection of over 3,000 remains. It was determined that over half of the artifacts dated to the seventeenth-century, and this new research revealed a few minority type artifacts, which “added a new dimension to the Charles Towne settlement.”\textsuperscript{187} The report adds that “Barbadian redwares, in particular, remind archaeologists and historians alike that efforts to settle Carolina was largely

\textsuperscript{182} Ibid., ix.
\textsuperscript{183} Ibid., 43.
\textsuperscript{184} Ibid.
\textsuperscript{185} Ibid., 69.
\textsuperscript{186} Ibid., 71.
\textsuperscript{187} Ibid., 88.
influenced by the richest colony of the British empire – Barbados.\textsuperscript{188} Archaeological research has significantly contributed in providing a better understanding of the seventeenth-century settlement.

\textsuperscript{188} Ibid.
Appendix B

Table of Archaeological Excavations in Charleston

<table>
<thead>
<tr>
<th>No.</th>
<th>Project</th>
<th>Date of Report</th>
<th>Artifacts (Units)</th>
<th>17th Century</th>
<th>18th Century</th>
<th>19th Century</th>
<th>20th Century</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Heyward-Washington House</td>
<td>1978</td>
<td>88,000</td>
<td>x</td>
<td>x</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>99 Market Street</td>
<td>1981</td>
<td>300</td>
<td>x</td>
<td>x</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Exchange Building</td>
<td>1981</td>
<td>N/A</td>
<td>x</td>
<td>x</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Meeting St. Office Building</td>
<td>1981</td>
<td>11,100</td>
<td>x</td>
<td>x</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>Charleston Convention Center</td>
<td>1982</td>
<td>9,000</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>First Trident</td>
<td>1983</td>
<td>5,600</td>
<td>x</td>
<td>x</td>
<td></td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>Lodge Alley (&amp; 38 State St.)</td>
<td>1983</td>
<td>23,000</td>
<td>x</td>
<td>x</td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>8</td>
<td>McCrady's Longroom</td>
<td>1983</td>
<td>N/A</td>
<td>x</td>
<td>x</td>
<td>x</td>
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<tr>
<td>9</td>
<td>33 Broad Street</td>
<td>1984</td>
<td>1,291</td>
<td>x</td>
<td>x</td>
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<td>x</td>
</tr>
<tr>
<td>10</td>
<td>Beef Market/City Hall</td>
<td>1984</td>
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<td>x</td>
<td>x</td>
<td></td>
<td></td>
</tr>
<tr>
<td>11</td>
<td>Aiken-Rhett House</td>
<td>1986</td>
<td>4,500</td>
<td>x</td>
<td></td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>12</td>
<td>Joseph Manigault House</td>
<td>1986</td>
<td>1,350</td>
<td></td>
<td>x</td>
<td></td>
<td></td>
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<tr>
<td>13</td>
<td>William Gibbes House</td>
<td>1986</td>
<td>N/A</td>
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<td>x</td>
<td>x</td>
<td></td>
</tr>
<tr>
<td>14</td>
<td>Charleston Place</td>
<td>1987</td>
<td>12,000</td>
<td>x</td>
<td>x</td>
<td></td>
<td></td>
</tr>
<tr>
<td>15</td>
<td>Post Office/Courthouse Annex</td>
<td>1987</td>
<td>3,800</td>
<td>x</td>
<td></td>
<td></td>
<td></td>
</tr>
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<td>16</td>
<td>66 Society St.</td>
<td>1988</td>
<td>N/A</td>
<td>x</td>
<td>x</td>
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<td>20th Century</td>
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Appendix C

Sections of the Code and Zoning Ordinance City of Alexandria, Virginia

Title 2 Chapter 4 of Code City of Alexandria, Virginia

ARTICLE I Alexandria Archaeological Commission

Sec. 2-4-80 Creation, composition and organization.

(a) There is hereby established a standing commission known as the Alexandria Archaeological Commission.

(b) The commission shall consist of 15 members to be appointed by the city council. The composition of the commission shall be as follows:
(1) five members at large;
(2) one citizen member from each of the three planning districts;
(3) one member from the Alexandria Association;
(4) one member from the Alexandria Chamber of Commerce;
(5) one member from the Alexandria Convention and Visitors Bureau Board of Directors;
(6) one member from the Alexandria Historical Society;
(7) one member from the Alexandria Society for the Preservation of Black Heritage;
(8) one member from the Friends of Alexandria Archaeology; and
(9) one member from the Historic Alexandria Foundation.

(c) Members of the commission shall be appointed in the manner prescribed in title 2, chapter 4, article A of the city code; provided that members who are the representative of an organization shall be nominated by the organization and confirmed by city council. The members shall serve for a term of four years; provided, that the members of the commission in office as of January 21, 1995, shall continue to serve the unexpired portion of their term of office; and, provided further, that the members who are the representative of an organization shall cease to be a member at such time as they shall cease to be a member, in good standing, of the organization for which they serve as representative. (Ord. No. 3773, 1/21/95, Sec. 1)

Sec. 2-4-81 Functions; powers; duties.

(a) The functions of the commission shall be as follows:
(1) to develop goals and priorities relating to the preservation and public interpretation of sites and resources which contribute to the history and heritage of
Alexandria from the beginning of human settlement, as well as that of the Commonwealth of Virginia and the United States;
(2) to promote the archaeological programs of the city with local, state and federal governments, private foundations, the general public, and area schools and colleges;
(3) to disseminate archaeological and historical data for public information, city use, and preservation planning purposes;
(4) to protect archaeological sites and artifacts from neglect, desecration, damage and destruction, and to assure proper evaluation and study of such sites and artifacts;
(5) to promote the exhibitions and programs of the Alexandria Archaeology Museum;
(6) to plan, develop and recommend short; mid- and long-term archaeological plans and programs;
(7) to develop a site registry of all lands in the city, whether public or private, known or believed to be of significant archaeological value;
(8) to encourage financial contributions, volunteerism and leadership opportunities that supplement and complement the city's archaeology program and the Alexandria Archaeology staff in a manner consistent with its high professional integrity;
(9) to enhance the visibility of the City of Alexandria as a leader in archaeology throughout Virginia, the United States and the world;
(10) to encourage the integration of archaeological and historical information and site preservation into master plans and development efforts;
(11) to make recommendations to city council regarding additional activities involving Alexandria's archaeological program, including conservation and curation;
(12) to coordinate and encourage the development of educational programs with local high schools and universities whereby students may receive credit by studying Alexandria through archaeological methods;
(13) to encourage owners of private lands which contain or may contain archaeological sites to seek advice from and work with Alexandria Archaeology prior to and during any development;
(14) to promote public awareness and participation in the preservation and study of archaeological sites and artifacts;
(15) to provide recommendations to individuals and communities on preservation of archaeological sites, resources and artifacts and on the formation of standards and guidelines;
(16) to support the staff of Alexandria Archaeology and its volunteers;
(17) to promote the use of the highest professional standards by Alexandria Archaeology staff in the collection, conservation and curation of the Alexandria Archaeology collection and associated records, maps, photographs and tapes; and
(18) to propose local ordinances and state statutes to promote the goals and aims set forth above.
(b) The commission is empowered to adopt rules and regulations in regard to procedure and other matters so long as the same are not inconsistent with the city code, and including, but not limited to, the establishment of committees through which to carry on its functions and purpose.

(c) The commission chair, vice-chair and secretary shall be elected annually by the commission members at the September meeting.

(d) The commission shall hold at least 10 regular meetings each year, and as many special meetings as the commission may deem advisable. (Ord. No. 3773, 1/21/95, Sec. 1)

Article XI Division B of Zoning Ordinance City of Alexandria, Virginia

Sec. 11-400 Site plan.

11-404 Development exempt from site plan requirement.

The prohibitions of section 11-403(A), (B) and (C) shall not apply to:

(A) The contemporaneous development of fewer than three dwelling units. It is the intent of this section 11-404(A) that these site plan regulations not apply to individual single-family, two-family or townhouse units developed or improved independently notwithstanding the terms of the other exemptions or the fact that such units were originally subject to a site plan. It is the further intent of this section 11-404(A) that this exemption not be undermined by purposeful piecemeal development; the term "contemporaneous development" includes development under common ownership or control or the subject of a common, concerted or coordinated plan or schedule of development irrespective of ownership or control.

(B) Additions to buildings where the total gross floor area of the proposed addition does not exceed one-third of the total gross floor area of the existing building or 3,000 square feet, whichever is smaller, or, where additions are proposed to two or more buildings located on the same lot, the aggregate proposed additions do not exceed one-third of the total gross floor areas of the existing buildings or 3,000 square feet, whichever is smaller. In calculating the size of any addition, replacement floor area shall be included.

(C) New buildings where the total gross floor area does not exceed 3,000 square feet; provided no part of any building is closer than 66 feet to other land that is used or zoned residential, there is no excess alteration of the grade as set forth in section 11-403(C), the site is not in a floodplain, and the site is not in excess of 10,000 square feet. In calculating the size of any new building, replacement floor area shall be included.
(D) Improvements for off-street parking purposes when appurtenant only to existing buildings, where access will be provided by existing driveways, and where the improvements do not provide more than five parking spaces. The total number of additional parking spaces provided under this exemption shall not exceed five, all of which shall comply with applicable provisions of Article VIII.

(E) Grading of open areas, either by excavation or fill, for the sole purpose of bringing the land to a grade compatible with the surrounding area, provided that the director of transportation and environmental services finds, on an inspection of the site, that the grading will have no adverse affect on the land of adjoining owners, will not encroach on or impair existing drainage channels or floodplains and will not cause problems of erosion, ponding or silting on adjoining properties.

(F) Improvements of the city including but not limited to streets, bridges, alleys, sidewalks, curbs, gutters, retaining walls or sewer improvements, but not including buildings, structures or parking lots.

11-411 Archaeological protection.

(A) Archaeological resource areas. A preliminary site plan which includes land designated as a potential resource area on the City of Alexandria Archaeological Resource Map, shall include reasonable archaeological evaluation reports and resource management plans when required under this section 11-411. The archeological resource map, which is on file in the office of the director of historic Alexandria and the office of the city archaeologist is hereby made a part of this ordinance.

(B) Application. This section 11-411 shall apply to all applications for preliminary or combined site plan or other development approval, otherwise subject to its provisions, which are filed subsequent to September 16, 1989.

(C) Administration. This section 11-411 shall be administered by the director of the office of historic Alexandria who may adopt reasonable procedures for its administration, consistent with applicable law.

(D) Preliminary archeological assessment. Prior to filing an application for approval of a preliminary site plan to which this section 11-411 applies, the applicant shall confer with the director of the office of historic Alexandria in order for the director to conduct a preliminary assessment of the potential archaeological significance of any site plan area designated on the map, and of the impact of any proposed ground disturbing activities on such area. The applicant shall provide full and accurate information as to all ground disturbing activities proposed to be conducted on the site.
(E) Criteria for preliminary assessment. Such preliminary archaeological assessment shall be based upon the following criteria, and shall be conducted consistent with professionally recognized standards for archaeological site evaluation:

(1) Research value. The extent to which the archaeological data that might be contained on the property would contribute to the expansion of knowledge.
(2) Rarity. The degree of uniqueness the property's resources possess and their potential for providing archaeological information about a person, structure, event or historical process, for which there are very few examples in Alexandria.
(3) Public value. The level of importance the property has to the community as a location associated with a significant person, structure, event or historical process.
(4) Site integrity. The extent to which soil stratigraphy and original placement and condition of archaeological resources on the property have not been disturbed or altered in a manner which appreciably reduces their research or public value.
(5) Presence of materials. The extent to which archaeological resources or evidence of historic structures are present on the property.
(6) Impact on resources. The extent to which any proposed ground disturbing activities will alter or destroy resources which the director has determined to have substantial archaeological significance under sections 11-411(E)(1) through (5) above.

(F) Finding of archeological significance.
(1) If, at the conclusion of the preliminary archaeological assessment, the director of the office of historic Alexandria determines either that the site plan area has no substantial archaeological significance, or that the proposed construction or development will not have a substantial adverse impact on any known or potential archaeological resources, the director of the office of historic Alexandria shall so certify to the planning commission, and no further review under this section 11-411 shall be required.
(2) If, at the conclusion of the preliminary archaeological assessment, the director of the office of the historic Alexandria determines that the site plan area has potential archaeological significance, and that the proposed development will have a substantial adverse impact on any known or potential archaeological resources, the applicant shall submit an archaeological evaluation report and a resource management plan as part of the preliminary site plan application.
(3) The director of the office of historic Alexandria shall render a determination in writing, within seven working days after receiving the information, unless written consent to extend such period is given by the applicant.

(G) Archeological evaluation report and resource management plan.

(1) When required under the provisions of this section 11-411, the applicant shall submit as part of the preliminary site plan application an archaeological evaluation report and a resource management plan, prepared by a qualified archaeologist or historian in conformity with professionally recognized standards for cultural resource management. The applicant or the authorized agent thereof
shall confer with the director of the office of historic Alexandria prior to preparing any submission to define and agree upon guidelines for such report and plan.

(2) Such archaeological evaluation report shall include detailed evaluation of the archaeological significance of the site plan area, including but not limited to reasonable measures for historic research, archaeological surveys and test excavations.

(3) Such resource management plan shall include reasonable measures for the study and preservation of archaeological resources found within the site plan area, including but not limited to test and full-scale excavations, site construction monitoring, field recording, photography, laboratory analysis, conservation of organic and metal artifacts, curation of the collection (e.g., artifacts, notes, photographs) and preparation of reports.

(4) Such resource management plan may, and if required by the planning commission or city council shall, also provide reasonable measures for further archaeological study, restoration, reconstruction, disposition of recovered artifacts to an appropriate public or private collection or museum, and in situ preservation of archaeological resources found within the site plan area.

(H) Review of archeological evaluation report and resource management plan.

(1) The archaeological evaluation report and resource management plan shall be reviewed and approved, disapproved or approved with modifications or conditions or both as part of the site plan review process.

(2) In the event a site plan application and review is required exclusively on account of ground disturbing activities not otherwise subject to such application and review, then and in such an event, notwithstanding any other provisions of this ordinance, the required site plan application and review shall be limited to the purposes and requirements of this section 11-411, and the application fee shall be as prescribed pursuant to section 11-104.
Chapter 6 ARCHAEOLOGICAL PRESERVATION

Sec. 6-1. Title.

This chapter shall be known and cited as the City of St. Augustine Archaeological Preservation Ordinance.
(Code 1964, § 5 1/2-1)

Sec. 6-2. Findings.

It is the finding of the city commission that St. Augustine, as the oldest permanent European settlement within the United States of America, contains many areas that are historically and archaeologically important to the citizens of this city and the United States, from all periods of its history, including pre-Columbian Indian villages, the original Spanish settlements on the mainland and the Anastasia Island portion of the city, British settlements, fortifications and other settlements and developments from the Second Spanish period, the American Territorial period and the pre-Civil War period. Further, in the preservation and understanding of the historical importance of St. Augustine, there is generally a direct relationship of archaeology to the economic well-being of the city and the present and future needs, public health, safety, morals and general welfare of its citizens and its visitors. Further, there is an educational value and benefit to the city that would result from a viable program of archaeological activities and the preservation of related resources.
(Code 1964, § 5 1/2-2)

Sec. 6-3. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Archaeological site means a property or location which has yielded or may yield information on the city's history or prehistory. Archaeological sites may be found within archaeological zones, historic sites, historic districts, private properties, city properties and other areas of the city. Archaeological sites are evidenced by the presence of artifacts and features below the ground surface indicating the past use of a location by people.
Archaeological zone means a geographical area which has or may reasonably be expected to yield information on local history or prehistory based upon broad prehistoric or historic settlement patterns and existing archaeological knowledge.

Artifact means objects which are a product of human modification or objects which have been transported to a site by people. In this city, artifacts over fifty (50) years old are protected by this chapter.

City archaeologist means the individual with general responsibility for assessing the archaeological resources of the city and directing, conducting or coordinating the monitoring, testing or salvage archaeology excavations of these resources. The individual may either be a city employee, employed by the city manager, or may be an individual or corporation employed by the city on a contract basis.

Cultural or historic resource means any prehistoric or historic district, site, building, object or other real or personal property of historical, architectural or archaeological value. The properties may include, but are not limited to, monuments, memorials, Indian habitations, ceremonial sites, abandoned settlements, sunken or abandoned ships, engineering works, treasure troves, artifacts or other objects with intrinsic historical or archaeological value, or any part thereof relating to the history, government and culture of the city, the state or the United States of America.

Delay period means the total number of calendar days (expressed in terms of weeks), such that the delay period is comprised of consecutive calendar days prior to commencement of a disturbance, plus the total number of calendar days subsequent to the commencement of a disturbance, during which testing or salvage archaeology efforts may be performed by the city archaeologist at an archaeology site, such that commencement or continuation of the disturbance and related construction work cannot otherwise proceed on the disturbance.

Disturbance means the cumulative digging, excavating, site preparation work or other such construction activities, regardless of the number of individual excavation or construction areas, related to an archaeological site.

Disturbance, major, means a disturbance that:
1. Occurs at a non-single-family residential property.
2. Occurs at locations more than three (3) inches below the adjacent surrounding ground surface.
3. Encompasses a combined area of two hundred fifty (250) square feet or more.

Disturbance, minor, means a disturbance that:
1. Occurs at a non-single-family residential property.
2. Occurs at locations more than three (3) inches below the adjacent surrounding ground surface.
(3) Encompasses a combined area of less than two hundred fifty (250) square feet but equal to or greater than one hundred (100) square feet.

In addition, the term "minor disturbance" shall be defined to mean a disturbance that occurs at a single-family residential property and occurs at locations three (3) inches or more below the surrounding ground surface and encompasses combined areas of one hundred (100) square feet or more.

Disturbance, unrelated, means a disturbance that:
(1) Occurs at locations from the ground surface to a maximum of three (3) inches below the adjacent surrounding ground surface.
(2) Encompasses a combined area of less than one hundred (100) square feet.
(3) Is not defined under "major disturbance" or "minor disturbance."

Land includes the word "marsh," "water" or "swamp."
Map means the archaeological base map of the city.

Monitoring means the observation after commencement of a disturbance to determine if archaeological resources exist in an area or, when such resources are known to exist, the observation, recording and incidental recovery of site features and materials to preserve a record of the affected portion of the site. Monitoring is applicable in locations where sites or features may occur but are generally not expected to be of such importance, size or complexity as to require lengthy work or project delays for salvage archaeology.

Project cost means either the estimated costs of construction, improvements or other related expenses, that are submitted by the applicant and used as the basis for calculation of prescribed building permit fees, or the estimated costs of construction, improvements or other related expenses, that are submitted by the applicant relative to a utility or right-of-way permit project, provided that the city, during its review of the archaeology application and the estimated costs, finds the proposed costs to be reasonably accurate.

Salvage archaeology means the archaeological excavation of a proposed disturbance (or a portion thereof) prior to its destruction by construction, or any other form of site disturbance. Salvage archaeology shall be concentrated only within the confines of the disturbance areas, in order to save site data which otherwise would be lost due to the disturbance. The extent of the salvage archaeology will be dependent on the proposed area of construction or disturbance, the estimated significance of the site and archaeological resources, the costs of the archaeology efforts and the availability of fees as hereinafter provided, the availability of general fund revenue budgeted for archaeology programs, time constraints, the degree of evidence of archaeological resources, and the recommendations of the city archaeologist relative to the need for the archaeology efforts.
Testing means the limited subsurface excavation or remote sensing of a proposed disturbance (or a portion thereof) to determine the potential, type or extent of the archaeological site. Testing may include augering and establishing archaeological excavation units and will include the screening of excavated material for artifact recovery.

Used or occupied includes the words "intended, designed or arranged to be used or occupied."

(Code 1964, § 5 1/2-3)
Cross references: Definitions and rules of construction generally, § 1-2.

Sec. 6-4. Archaeological zones.

In order to regulate and restrict subsurface disturbances as provided in this chapter, and to determine the extent and scope of work for archaeological investigations and excavations that may be required at a given archaeological site, the incorporated area of the city is hereby divided into zones as shown on the archaeological base map entitled "Archaeological Base Map For St. Augustine, Florida," and such map is hereby declared to be a part of this chapter. The zones, as delineated on the base map, are described as follows, with titles and abbreviations as indicated:

(1) Archaeological Zone Number I relates to areas containing the most significant archaeological sites in the city and includes the following subzones: Archaeological Zone I-A consists of an area containing historic resources from the 17th to the 20th centuries, including the Cubo Line west to Ponce de Leon Boulevard, and limited prehistoric resources. Archaeological Zone I-B consists of an area containing historic resources from the 16th through the 20th centuries, specifically including the earliest areas of the downtown portion of the city. Archaeological Zone I-C consists of an area containing historic resources from the 17th to the 20th centuries; Archaeological Zone I-D consists of an area containing the original settlement of St. Augustine in 1565 and important Indian mission settlements and prehistoric sites. Archaeological Zone I-E consists of an area containing the site of Ft. Mose.

(2) Archaeological Zone Number II relates to areas containing important known archaeological sites and includes the following subzones: Archaeological Zone II-A consists of an area containing portions of Hospital Creek, numerous prehistoric and historic Indian sites, farmsteads, plantations and possible military sites. Archaeological Zone II-B consists of an area containing the Lincolnville Dump area on the edge of Maria Sanchez Lake; Archaeological Zone II-C consists of an area containing the Pocotalaca Indian Mission; Archaeological Zone II-D consists of an area containing the Palica Indian Mission; Archaeological Zone II-E consists of an area containing the Tolomato Mission; Archaeological Zone II-F consists of an area containing the Tolomato Cemetery; Archaeological Zone II-G
Archaeological Base Map for St. Augustine, Florida.

Archaeological Zone Number III relates to areas having a high potential for historic/prehistoric archaeological sites and contains the following subzones: Archaeological Zone III-A consists of an area containing the Lincolnville portion of the city; Archaeological Zone III-B consists of an area containing portions of Anastasia Island; Archaeological Zone III-C consists of an area containing Oyster Creek; and Archaeological Zone III-D consists of an area containing portions of the eastern edge of the San Sebastian River, west of the FEC Railroad, north of SR 16.

Editor's note: It should be noted that Ord. No. 98-24, adopted Sept. 14, 1998, amended the Archaeological Base Map for St. Augustine, Florida.

Sec. 6-5. Interpretation of zone boundaries.

Where uncertainty exists as to the boundaries of zones as shown on the archaeological base map for the city, the following rules shall apply:

1. Boundaries indicated as approximating centerlines of streets, highways or alleys shall be construed to follow such centerlines.
2. Boundaries indicated as approximately following platted lot lines shall be construed to follow such lot lines.
3. Boundaries indicated as approximately following city limits shall be construed to follow such city limits.
4. Boundaries indicated as following railway lines shall be construed to be midway between the main tracks.
5. Boundaries indicated as following shorelines shall be construed to follow such shorelines. In the event of a change in shorelines, the boundaries shall be construed to move with the change except where such moving would change the archaeological status of a lot or parcel; in such case the boundary shall be interpreted in such a manner as to avoid changing the archaeological status of such lot or parcel.
6. Boundaries indicated as parallel to or extensions of beaches indicated in subsections (1) through (5) above shall be so construed. The distance not specifically indicated on the archaeological base map shall be determined by the scale of the map.
7. Where physical or cultural features existing on the ground are not in agreement with those shown on the archaeological base map, or in other circumstances not covered by subsections (1) through (6) above, the city archaeologist shall make recommendations concerning the interpretation of the zoning boundaries for the city's approval.

(Code 1964, § 5 1/2-5)
Sec. 6-6. Zone regulations.

(a) Within Archaeological Zones I, II or III, any proposed major or minor disturbance which requires a building permit, a city utility permit or a city right-of-way permit shall be subject to a review of the proposed disturbance, before such disturbance takes place, by the city based on an application form (archaeological review application) to be prescribed by the city manager. No building, right-of-way or utility permit will be issued by the city until the archaeology application has been submitted and the applicable archaeology fees have been paid. The archaeological review shall result in the determination of proposed archaeology efforts on the site and the application shall then be made a part of the city's prescribed permitting process. Only those disturbances that require a city building, utility or right-of-way permit will be governed by this chapter and, in addition, unrelated disturbances will not be applicable to this chapter. Furthermore, this chapter will apply only to the areas within the boundaries and confines of the proposed disturbances and any archaeology efforts shall be conducted so as not to cause any unnecessary damage to adjacent areas of the property. Any archaeology work proposed by the city concerning disturbances not relevant to this chapter may be conducted only based on written permission from the property owner to the city.

(b) Disturbances applicable to this chapter shall be in compliance with the following regulations:

(1) Within Archaeological Zone I, any major disturbance shall be subject to intensive salvage archaeology prior to the commencement of the disturbance, building construction, or utility excavation, by the city archaeologist. After the disturbance has commenced, it shall be subject to monitoring during construction to provide data and to determine the presence of further or additional resources and, then, either testing or salvage archaeology may be conducted, as recommended by the city archaeologist and approved by the city.

(2) Within Archaeological Zone II, any major disturbance shall be subject to testing prior to the commencement of the disturbance. If it is determined that there will be a significant archaeological impact from the proposed disturbance, or if the testing reveals that significant archaeological resources may exist, then salvage archaeology may also be conducted prior to commencement of the disturbance, as recommended by the city archaeologist and approved by the city. In addition, after the disturbance has commenced, it shall be subject to monitoring during construction to provide field data and to determine the presence of further or additional resources and, then, testing may again be conducted, as recommended by the city archaeologist and approved by the city.

(3) Within Archaeological Zone III, any major disturbance shall be subject to testing prior to the commencement of the disturbance. If it is determined that there will be a significant archaeological impact from the proposed disturbance, or if the testing reveals that significant archaeological resources exist, then salvage archaeology may also be conducted prior to commencement of the disturbance, as
recommended by the city archaeologist and approved by the city. In addition, after the disturbance has commenced, it shall be subject only to monitoring during construction to provide additional field data.

(4) Within Archaeological Zone I, any minor disturbance shall be subject to testing prior to the commencement of the disturbance. If it is determined that there will be a significant archaeological impact from the proposed disturbance, or if the testing reveals that significant archaeological resources exist, then salvage archaeology may also be conducted prior to commencement of the disturbance, as recommended by the city archaeologist and approved by the city. In addition, after the disturbance has commenced, it shall be subject only to monitoring during construction to provide additional field data.

(5) Within Archaeological Zones II and III, minor disturbances shall be subject only to testing prior to commencement of the disturbance and only to monitoring after commencement of the disturbance by the city archaeologist.

(6) Within Archaeological Zones I, II and III, any changes in construction plans or documents (based on those formally approved by the city during the city's application review process) that identify additional or modified disturbance areas may necessitate or allow additional considerations, fees and actions by the city, in accordance with provisions of this chapter.

(7) Within Archaeological Zone I, the city will impose a delay period for any proposed disturbance (or portion thereof) for a minimum of four (4) weeks for a major disturbance and a maximum of four (4) weeks for a minor disturbance, in order to conduct the appropriate archaeology efforts. If more time is required relative to a major disturbance, the city archaeologist may request from the city manager up to four (4) additional two-week periods, to be reviewed and granted individually. The applicant shall be provided copies of these requests when they are submitted to the city manager and the additional delay period reviews shall include the applicant, at the applicant's request. After a total of twelve (12) weeks of delays for a major disturbance, the city archaeologist may request that the city manager grant additional two-week periods, provided that written permission for the delays is granted by the property owner.

(8) Within Archaeological Zone II, the city will impose a delay period for any proposed disturbance (or portion thereof) for a minimum of four (4) weeks for a major disturbance and a maximum of three (3) weeks for a minor disturbance, in order to conduct the appropriate archaeology efforts. If more time is required relative to a major disturbance, the city archaeologist may request from the city manager two (2) additional two-week periods, to be reviewed and granted individually. The applicant shall be provided copies of these requests when they are submitted to the city manager and the additional delay period reviews shall include the applicant, at the applicant's request. After a total of eight (8) weeks of delays for a major disturbance, the city archaeologist may request that the city manager grant additional two-week periods, provided that written permission for the delays is granted by the property owner.

(9) Within Archaeological Zone III, the city will impose a delay period for any proposed disturbance (or portion thereof) for a minimum of two (2) weeks for a major disturbance and a maximum of two (2) weeks for a minor disturbance, in
order to conduct the appropriate archaeology efforts. If more time is required relative to a major disturbance, the city archaeologist may request from the city manager two (2) additional one-week periods, to be reviewed and granted individually. The applicant shall be provided copies of these requests when they are submitted to the city manager, and the additional delay period reviews shall include the applicant, at the applicant's request. After a total of four (4) weeks of delays for a major disturbance, the city archaeologist may request that the city manager grant additional one-week periods, provided that written permission for the delays is granted by the property owner.

(Code 1964, § 5 1/2-6)

Sec. 6-7. Excavations on public property.

No individual shall be allowed to use a probe, metal detector or any other device to search or excavate for artifacts on public property, nor can any individual remove artifacts from public property without the written permission of the city. Furthermore, no disturbances or construction activities shall be authorized within properties belonging to the city, including public streets and rights-of-way, without a city right-of-way permit and without such archaeology efforts as may be addressed by this chapter. Any proposed archaeological work and delays relative to a disturbance or construction work shall be in accordance with provisions of this chapter relative to major and minor disturbances in Archaeological Zones I, II and III.

(Code 1964, § 5 1/2-7)

Sec. 6-8. Fees.

(a) For the purposes of funding the city's archaeology program there shall be added to the fees collected for each applicable building, utility and right-of-way permit issued within Archaeological Zone I a nonrefundable minimum archaeology fee of one and one-half (1 1/2) percent of the estimated project cost for which the permit is issued. In addition, there shall be added to the fees assessed for each applicable building, utility and right-of-way permit issued within Archaeological Zone II a nonrefundable minimum archaeology fee of one and one-fourth (1 1/4) percent of the estimated project cost for which the permit is issued. In addition, there shall be added to the fees assessed for each applicable building, utility and right-of-way permit issued within Archaeological Zone III a nonrefundable minimum archaeology fee of one (1) percent of the estimated project costs for which the permit is issued. Following calculation of the percentage-based archaeology fees for Zones I, II and III, as herein defined, and if such fees are less than fifty dollars ($50.00), then the minimum fee shall be adjusted to the fifty-dollar amount. If the percentage-based archaeological fees exceed twenty-five thousand dollars ($25,000.00), the applicant shall be required to pay twenty-five thousand dollars ($25,000.00) at the time of application for the permit. In the event that the actual city costs expended in the archaeological efforts, as described in subsection (b) hereof, exceed twenty-five thousand dollars
($25,000.00), the city shall submit a statement for such services to the applicant which shall include wages of city employees for time spent on site, reasonable fees for use of city equipment, and costs of outside labor and services at the actual rate billed to the city, and the additional amount expended by the city and billed shall be paid to the city prior to final issuance of a building permit for the subject property.

(b) In the event that archaeology efforts, including research, testing, salvage archaeology, monitoring, analysis, curation, conservation, cataloging, recording, storage, reports and other related archaeology services are proposed to be performed by the city archaeologist, either prior to, during or after the conduct of any construction or disturbance, and the total estimated costs related thereto are in excess of the minimum archaeology fees prescribed herein, the city archaeologist shall request approval of the estimated additional costs for the archaeology efforts and, based on approval of the city manager, the city shall require the applicant to deposit with the city additional fees equal to the additional costs. Any of the additional fees not actually expended in the conduct of such research, testing, salvage archaeology, monitoring, analysis, curation, conservation, cataloging, recording, storage and reports, shall be returned to the applicant by the city at the time of final disposition of the work by the city archaeologist.

(c) As an alternative to paying the above described archaeology fees, a qualified applicant (qualified applicant is any applicant that is a 501(c)(3) nonprofit corporation authorized to do business in the State of Florida and is an entity engaged in the preservation of historical and archaeological resources of the St. Augustine area and has shown a demonstrated ability to conserve and display various aspects of historical resources of the St. Augustine area in a venue tantamount to a museum setting and said venue is accessible to the general public for a fee and said venue is licensed to do business in the City of St. Augustine), for a building permit may pay fifty (50) percent of the archaeology fee as determined in accordance with this article for administration by the city archaeologist, if the applicant desires to privately contract with a member of the Registry of Professional Archaeologists to perform archaeology efforts, including research, testing, salvage archaeology, monitoring, analysis, curation, conservation, cataloging, recording, storage, reports and other related archaeology services in accordance with the following criteria:

(1) A scope of services is submitted to and approved by the city archaeologist prior to performing any archaeological efforts to ensure compliance with the comprehensive plan and the City Code;

(2) The scope of services contains a work schedule that details the archaeological efforts and the time frame for excavation to ensure close monitoring by the city archaeologist and a condition that all reports and other documents are property of the city; and
(3) The applicant ensures compliance with the scope of services via enforceable contract with the selected archaeologist, and stipulates to allowing the city archaeologist to issue a stop work order when noncompliance is observed. (Code 1964, § 5 1/2-8; Ord. No. 96-48, § 1, 9-9-96; Ord. No. 00-08, § 1, 3-13-00; Ord. No. 04-22, § 1, 11-8-04)

Sec. 6-9. Ownership of artifacts.

(a) All artifacts uncovered, recovered or discovered during the course of any testing, salvage archaeology or monitoring, as provided herein, on private property shall belong to the owner of the property upon which such artifacts are found. Likewise, artifacts uncovered, recovered or discovered during testing, salvage archaeology or monitoring on property belonging to the city shall belong to the city. However, the city shall retain possession of artifacts from private property for a period of up to two (2) years to allow for their proper analysis, cataloging, recording, and conservation, with written permission of the owner. Furthermore, the city shall attempt to obtain written permission from property owners to secure permanent ownership of the artifacts; otherwise, all retained artifacts are then to be returned to the property owner as soon as such analysis, cataloging, recording, and conservation is completed. Individuals and property owners are strongly urged to donate archaeological artifacts to the city for long-term storage, care, protection and preservation.

(b) The removal of human skeletal remains recovered in archaeological context in all instances shall be coordinated with the local medical examiner, city, the city archaeologist and the state archaeologist. Such remains shall be dealt with in accordance with provisions of F.S. ch. 872 and they are not subject to private ownership. Such material shall be sensitively treated and, following their analysis by a physical anthropologist, shall be curated at a designated repository or appropriately reburied. If at all possible, human burials should not be removed and they should be left undisturbed in their original position. (Code 1964, § 5 1/2-9)

Sec. 6-10. Curation of artifacts.

Artifacts from monitoring, salvage archaeology and testing efforts will be washed, catalogued, analyzed, recorded and conserved by the city archaeologist in compliance with the U.S. Department of Interior curation standards, with written permission of the owner. If the artifacts are permanently donated to the city they will be properly preserved and stored. The city will be responsible for determining the approved and acceptable repository for artifacts from the archaeological program in the city and the city will strive to maintain consistency in curation procedures and storage of materials in a minimal number of locations. (Code 1964, § 5 1/2-10)
Sec. 6-11. City archaeologist.

(a) The city manager shall appoint a city archaeologist who shall meet the city's requirements and the standards for membership by the Society of Professional Archaeologists and shall have a demonstrated background in historic and prehistoric archaeology.

(b) The city archaeologist shall work at the direction of the city manager and shall:

1. Review all applicable building, utility and right-of-way permit applications in Archaeological Zones I, II and III.
2. Submit project cost proposals, recommendations and requests, as required, to the city manager, or his designee.
3. Conduct such testing, salvage archaeology or monitoring as shall be addressed by this chapter.
4. Prepare or oversee preparation and submittal of a final report on all projects, which report shall be consistent with the scope of each project and shall meet the general guidelines established for archaeological reports by the department of state, division of historical resources.
5. Record completed archaeology projects with the Florida Master Site file.

(c) In addition, the city archaeologist may, as directed by the city manager:
1. Conduct archaeological site surveys within the city.
2. Develop strategies for preservation of the archaeological resources of the city.
3. Work with property owners during the planning stage of projects applicable to this chapter in order to minimize the potential impact on archaeological sites.
4. Advise the city manager concerning archaeological issues.
5. Undertake or be involved in other specific city archaeology projects.
6. Carry out public archaeology programs for the education and benefit of the citizens and visitors to the city.

(Code 1964, § 5 1/2-11)

Sec. 6-12. Grievance procedure.

An appeal of any portion of this chapter may first be brought before the city manager and then before the city commission.

(Code 1964, § 5 1/2-12)

Sec. 6-13. Commencement of delay period and archaeological work.

(a) The delay period for any proposed project requiring compliance with this chapter shall be considered to begin:
(1) Forty-eight (48) hours after the payment of archaeology fees and the issuance of the building, utility or right-of-way permit; or
(2) After the resolution of any appeal; whichever is greater.

(b) Within a reasonable time after commencement of the delay period, and prior to a disturbance, the city must formally notify the applicant in writing if salvage archaeology or testing efforts will be conducted by the city and, if so, that, in accordance with provisions of the delay period, the disturbance may not proceed until the archaeological work is completed or the delay period has expired, whichever occurs first.

(c) The city may, however, reserve a maximum of twenty-five (25) percent of any applicable delay period to undertake further or additional salvage archaeology or testing efforts after the commencement of a disturbance, in accordance with the zone regulations and other provisions of this chapter, provided that less than seventy-five (75) percent of the delay period has expired or was actually expended prior to commencement of the disturbance. In such instances, the city may formally notify the applicant in writing at any time that the salvage archaeology or testing work will be conducted and that, in accordance with provisions of the delay period, the disturbance may not proceed or it must cease until the work is complete or the delay has expired, whichever occurs first.

(d) Proposed salvage archaeology and testing efforts may be commenced prior to the issuance of the applicable city permit, based on a written request or written approval from the applicant, provided that the archaeology fees have been paid and the project construction plans are in sufficient detail to accurately define the boundaries of the disturbance areas. If any design or location changes to the project disturbance areas occur after the archaeology efforts have begun, additional fees and salvage archaeology or testing efforts may be required and assessed accordingly. The commencement of archaeology efforts prior to the issuance of the applicable city permit will not alter the delay period or its beginning time as provided in this chapter.

(Code 1964, § 5 1/2-13)

Sec. 6-14. Penalty for violation.

Any violation of this chapter shall be punished as provided in section 1-8 of this Code.

(Code 1964, § 5 1/2-14)
Appendix E

Pima County, Arizona Cultural Resources Compliance Review Process

Pima County Cultural Resources Compliance Review Process

Step One – Records Check

• Check records to determine if previously recorded cultural resources are in the project area
• Assess the potential for finding intact cultural resources in the project area
• Determine if cultural resources survey is needed

Usually the developer requests an official site records check from the Arizona State Museum. The records check can be done quickly, easily, and inexpensively. To request a site records check, contact the Arizona State Museum Site records Office at 621-4011.

Sometimes a records check will determine that the project area has been surveyed and that nothing was found. In other cases, the records check will indicate that the survey was done so long ago that another survey is needed.

In still other cases, a records check will determine that the project area has been so heavily disturbed that a survey is not warranted. If this is the case, we will recommend that the requirement be waived.

Step Two – Inventory

• Cultural Resources Survey: An on-the-ground inspection of the project area and all areas related to the project
• Requires the services of a professional archaeologist or architect, or both, as needed
• A report documents all cultural resources, or their absence, in the project area

Cultural resources survey requires hiring a professional in archaeology or architecture who meets the professional standards of Arizona.

Step Three - Evaluation

Apply the Criteria of Significance of the National Register of Historic Places
• A – Associated with significant events
• B – Association with significant persons
• C – Associated with a type, period, or method of construction…
• D – Information important to history or prehistory
All cultural resources documented in a county project area are evaluated for their eligibility to be listed in the National Register of Historic Places.

- This is the nation’s honor role of places considered to be important to the history of the American people at the national, state, or local level.
- The criteria were developed by the National Park Service and are used as a national standard.
- Any cultural resource that meets one or more of the criteria is considered “significant” and is eligible for the National Register.
- Any cultural resource that is not eligible for the National Register is not considered “significant” and usually requires no further consideration. Exception: roadside shrines.

**Step Four – Impact Assessment**

Assess Impacts to National Register eligible sites
- Will the proposed project adversely affect the characteristics that make the site eligible for listing?
- If yes, prepare mitigation plan
- If a project will not negatively affect a National Register eligible site, or the project can be modified to avoid affecting the site, then a mitigation plan is not needed and the project can continue

In such cases, a stipulation might be added; for instance, a conservation easement identified to ensure protection of the cultural resource.

The preferred means of treating effects to, or impacts on, National Register eligible sites is avoidance and preservation in place.

Avoidance is the quickest and cheapest way to deal with the problem and the best way to protect and preserve cultural resources.

If that is not possible, or desirable, and a National Register eligible cultural resource will be affected, then mitigation is required.

**Step Five – Mitigation**

- Mitigation Plan: A strategy for minimizing harm to National Register sites.
- Typical mitigation options:
  - restore/reuse/rehabilitate
  - relocate
  - record/research/recover data
Mitigation means doing something to either preserve the actual cultural resource itself or to recover information about the cultural resource before it is destroyed through construction.

What is done to mitigate effects to the cultural resources will depend on what the resource is, why it is important, and how it will be affected.

The options can range in scope from a simple monitoring plan to full scale excavation, analysis, curation, and report preparation.

**Pima County Policies**

As a political subdivision of the State of Arizona, Pima County ensures that all projects on County land or rights-of-way or any County funded projects with the potential to impact cultural resources comply with the Pima County Cultural Resources Compliance Process.

Anyone applying for a County Right-Of-Way Use Permit must comply with Pima County Cultural Resources Requirements.

Pima County requires that private developments on private land comply with County cultural resources requirements. The Pima County cultural resources compliance process is explained in our compliance section. On private land there are four situations in which cultural resources compliance must occur:

- A Comprehensive Plan Amendment
- A Pima County Code Chapter 18.91
- A Site Analysis
- A Type II grading permit, Pima County Code Chapter 18.81.


