

STATE OF SOUTH CAROLINA )

COUNTY OF OCONEE )

ORDINANCE 2023-5

CITY OF WALHALLA )

**AN ORDINANCE TO ESTABLISH LOCAL HISTORIC PROPERTY DESIGNATION PROGRAM AND DESIGN REVIEW**

**Whereas**, the City of Walhalla wishes to establish a program to preserve, promote and develop the City's historical resources; and

**Whereas**, such program would allow for the establishment of a local historic register and the designation of historic landmarks, sites and districts that represent archaeological, architectural, cultural and historic significance of the City's resources; and

**Whereas**, local historic registers are a foundational element of historic preservation programs, enabling communities to survey, recognize and preserve their unique history and culture by inventorying and listing these resources; and

**Whereas**, historic preservation programs can preserve community character, promote cultural, economic and general welfare of its citizens, strengthen local economics and improve a community's quality of life;

NOW THEREFORE: it is ordained and enacted that: by the Mayor and Council members of the City of Walhalla, in Council assembled, that the following ordinance, shall be as follows:

**SECTION 1. TITLE**

The title of this ordinance shall be the City of Walhalla Historic Preservation Ordinance.

**SECTION 2. PURPOSE**

The purpose of this ordinance is to promote the public health, safety and general welfare by providing for the for the identification, protection, enhancement, perpetuation and use of improvements, buildings and their settings, structures, objects, monuments, sites, places, and areas within the City of Walhalla that reflect special elements of the City's architectural, artistic, cultural, engineering, aesthetic, historical, social and other heritage to achieve the following objectives:

- (A) Safeguard the heritage of the City by encouraging the voluntary protection of historic resources, representing significant elements of its history;
- (B) Enhance the visual character of the City by encouraging and providing for the voluntary preservation of those buildings that reflect unique and established architectural traditions that contribute to the established neighborhoods of the City;
- (C) Foster public appreciation of and civic pride in the beauty of the City and the accomplishments of its past;
- (D) Strengthen the economy and improve property values of the City by protecting and enhancing the City's attraction to residents and visitors;
- (E) Promote the private and public use of historic resources for the education, prosperity and

- general welfare of the people;
- (F) Stabilize and improve property values within the City; and
  - (G) Achieve historic preservation through the encouragement and promotion of voluntary additions to the City's Historic Register.

This ordinance is part of the zoning ordinance of City of Walhalla and is enacted pursuant to the South Carolina Code of Laws, Sections 6-29-710 and Section 6-29-870 et sequitur.

### **SECTION 3. DEFINITIONS**

*Additions.* An addition is an expansion of a building that increases the original size or footprint of the structure by constructing additional space.

*Alteration.* A change in the external architectural features of any historic structure or in the interior of any such structure if the interior feature is specifically included in the historic designation; a change in the landscape features of any historic site or place; or work having an adverse effect upon designated archaeological resources.

*Character-Defining Features.* Overall shape of the building, its materials, craftsmanship, decorative details and features, as well as the various aspects of its site and environment; features that capture the historic character of the building.

*Certificate of Appropriateness.* Document issued by the Planning Commission, following a prescribed review procedure, certifying that the proposed actions by an applicant are found to be acceptable in terms of design criteria relating to the individual property or the historic district.

*Cultural Landscape.* Geographic area, including both cultural and natural resources and the wildlife or domestic animals therein, associated with an historic event, activity, or person or exhibiting other cultural or aesthetic values.

*Department.* The City of Walhalla Community Development Department.

*Director.* The City's Community Development Director or designee.

*Exterior architectural features.* The architectural style, general design and general arrangement of the exterior of a building, structure or object, including but not limited to the kind or texture of the building material and the type and style of all windows, doors, signs and other appurtenant architectural fixtures, features, details or elements relative to the foregoing.

*Historic District.* An area, designated by the city council, upon the recommendation of the Planning Commission and pursuant to the provisions of this ordinance.

*Historic Integrity.* The ability of a property to convey its significance. Historic properties either retain integrity (convey their significance) or they do not. Within the concept of integrity, the National Register criteria recognizes seven aspects or qualities that, in various combinations, define integrity. The seven aspects of integrity are location, design, setting, materials, workmanship, feeling and association.

*Historic Property.* Any place (including an archaeological site or the location of a significant historical event), building, structure, work of art, fixture or similar object that has been individually designated by City Council or designated as a contributing property within a historic district.

*Historic Register (Register).* The City's list of properties formally designated as historic

resources after an application is filed by the property owner. The current list of designated properties will be kept on file at the Community Development office. Properties on the South Carolina and National Register are automatically eligible for the City's Historic Register.

*Historic Resource.* A property or structure that (1) is listed on the City's Historic Register, (2) is listed on the South Carolina Register of Historical Resources, (3) has been officially determined to be eligible for the South Carolina Register of Historical Resources by the State Historical Resource Commission, (4) is listed on the National Register of Historic Places, (5) has been officially determined to be eligible for the National Register of Historic Places by the National Park Service, or (6) the City is mandated by law to treat as a historic resource based on substantial evidence in light of the whole record. Generally, a resource shall be considered to be "historically significant" if the resource meets the criteria for listing on the SC Register of Historical Resources.

*Local Design Guidelines or Style Guide.* A set of guidelines that provide recommendations for treatments of various building systems, such as windows and roofs, as well as information specific to particular architectural styles. This document would provide preferred design examples and guidelines for the alteration of historic resources. Projects which are consistent with these guidelines will typically not create an adverse impact to an historic resource.

*Material Change in Appearance.* A change that will affect either the exterior architectural or environmental features of a historic property or any building, structure, site, object, or landscape feature within a historic district, such as:

- (1) A reconstruction or alteration of the size, shape or facade of a historic property, including relocation of any doors or windows or removal or alteration of any architectural features, details or elements;
- (2) Demolition or relocation of a historic structure;
- (3) Commencement of excavation for construction purposes;
- (4) A change in the location of advertising visible from the public right-of-way; or
- (5) The erection, alteration, restoration or removal of any buildings or other structure with a historic property or district, including walls, fences, steps and pavements, or other appurtenant features, except exterior paint alterations.

*Object.* An object is a material thing of functional, aesthetic, cultural, historical or scientific value that may be, by nature or design, movable yet related to a specific setting or environment.

*Site.* A site is the location of a significant event, a prehistoric or historical occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself maintains historical or archaeological value regardless of the value of any existing structure.

*Structure.* A structure is a work made up of interdependent and interrelated parts in a definite pattern of organization. Constructed by man, it is often an engineering project large in scale.

*Substantial Hardship.* Hardship, caused by unusual and compelling circumstances, based on one or more of the following: (1) the property cannot reasonably be maintained in the manner dictated by the ordinance, (2) there are no other reasonable means of saving the property from deterioration, or collapse, or (3) the property is owned by a nonprofit organization, and it is not feasible financially or physically to achieve the charitable purposes

of the organization while maintaining the property appropriately.

#### **SECTION 4. COMMISSION AUTHORIZATION.**

- (a) It is hereby established that the City's Planning Commission (Commission) shall have the responsibility to oversee the Historic Designation Program and design review duties.
- (b) *Planning Commission Powers.* The Planning Commission shall be authorized to:
  - (1) Prepare and maintain, or cause to have prepared and maintained, an inventory of all property within the City having the potential for designation as historic property;
  - (2) Review requests by property owners for historic designation and inclusion on the City's Historic Register;
  - (3) Recommend to the City Council specific districts, sites, buildings, structures, or objects to be designated by ordinance as historic properties or historic districts;
  - (4) Review applications for certificates of appropriateness, and grant or deny same in accordance with the provisions of this ordinance;
  - (5) Recommend to the City Council that the designation of any district, site, building, structure or object as a historic property or as a historic district be revoked or removed;
  - (6) Perform, or cause to have performed, historic preservation activities within the City; and
  - (7) Review and make comments to the State Board of Review concerning the nomination of properties within its jurisdiction to the South Carolina and National Register of Historic Places.
- (c) *Planning Commission's power to adopt standards:* The Commission shall develop, or cause to have developed, and adopt standards, design guidelines and criteria to perform its duties. The Commission shall have the flexibility to adopt design standards without amendment to this ordinance.

#### **SECTION 5. RECOMMENDATION AND DESIGNATION OF HISTORIC DISTRICTS AND PROPERTIES.**

- (a) *Historic Property Inventory:* Commission shall compile and collect information of historic resources within the city-limits of Walhalla.
- (b) *Historic Property Register:*
  - (1) Inclusion on the City's Historic Register shall be voluntary and require the approval of the property owner.
  - (2) The Commission shall, through the City Community Development Department, accept requests for historic designation and inclusion on the City's Historic Register.
  - (3) Prior to the Commission's recommendation of a historic district or historic property to the City Council for designation, the Commission shall compile a report for nomination consisting of:
    - a. A physical description;
    - b. A statement of the historical, cultural, architectural and/or aesthetic significance;

- c. A map showing district boundaries and zoning classification of individual properties therein, or showing boundaries of individual historic properties; and
  - d. Representative photographs.
- (4) Properties or districts accepted for inclusion on the City's Historic Register are eligible to apply for a City plaque or marker, detailing its significance. Any fees associated with the plaques and/or markers shall be set by the City Council.
- (c) *Designation of a Historic District:*
  - (1) A historic district is a geographically definable area, which contains buildings, structures, sites, objects, and landscape features or a combination thereof, which:
    - a. Has special character of special historic/aesthetic value or interest;
    - b. Represents one or more periods, styles, or types of architecture typical of one or more eras in the history of the City, County or State; and
    - c. Causes such area, by reason of such factors, to constitute a visibly perceptible section of the City.
  - (2) Boundaries of a historic district shall be included in the separate ordinances designating such districts and shall be shown on the official zoning map of the city.
- (d) *Designation of a historic property:* A historic property or landmark is a building, structure, site, or object; including the adjacent area necessary for the proper appreciation or use thereof, deemed worthy of preservation by reason of value to the City for one of the following reasons:
  - (1) It has significant inherent character, interest, or value as part of the development or heritage of the community, state, or nation; or
  - (2) It is one of the few remaining examples of a past architectural style;
  - (3) It is a place or structure associated with an event or persons of historic or cultural significance to the community, state, or nation; or
  - (4) It is the site of natural or aesthetic interest that is continuing to contribute to the cultural or historical development and heritage of the community, state or nation.
  - (5) It is the work of a designer whose work has influenced significantly the development of the community, state or nation; or
  - (6) It contains elements of design, detail, materials, or craftsmanship which represent a significant innovation; or
  - (7) It is part of or related to a square or other distinctive element of community planning; or
  - (8) It represents an established and familiar visual feature of the neighborhood or community; or
  - (9) It has yielded, or may be likely to yield, information important in pre-history or history.
  - (10) Property is listed on the South Carolina Register of Historical Resources; eligible for the South Carolina Register of Historical Resources; listed on the National Register of Historic Places; or eligible for the National Register of Historic Places.
- (e) *Requirements for adopting an ordinance for the designation of historic districts and historic properties:*

- (1) Any ordinance designating any property or district as historic shall:
  - a. List each property in a proposed historic district or describe the proposed individual historic property;
  - b. Set forth the name(s) of the owner(s) of the designated property or properties;
  - c. Require that a certificate of appropriateness be obtained from the Commission prior to any material change in appearance of the designated property; and
  - d. Require that the property or district be shown on the official zoning map of the city and be kept as a public record to provide notice of such designation.
- (2) The Planning Commission and/or City Council shall hold a public hearing on any proposed ordinance for the designation of any historic district or property, following the established public notice requirements of the City.
- (3) The Planning Commission shall transmit its recommendation to City Council, following its public meeting.
- (4) Following receipt of the Commission recommendation, the City Council may adopt the ordinance as proposed, may adopt the ordinance with any amendments they deem necessary, or reject the ordinance.

#### **SECTION 6. APPLICATION FOR CERTIFICATE OF APPROPRIATENESS (COA).**

- (a) *Approval of material change in appearance in historic districts or involving historic properties:* After the designation by ordinance of a historic property or a historic district, no material change in the appearance of such historic property, or of a contributing or non-contributing building, structure, site or object within such historic district, shall be made or be permitted to be made by the owner or occupant thereof, unless or until the application for a certificate of appropriateness has been submitted to and approved by the Commission. A building permit shall not be issued without a certificate of appropriateness. A separate zoning permit shall not be required for work requiring a COA.
- (b) *Submission of supporting documentation to Commission:* An application for a certificate of appropriateness shall be accompanied by supporting documentation, such as drawings, plans, photographs, etc. as may be required by the Commission.
- (c) *Interior alterations:* In its review of applications for certificates of appropriateness, the Commission shall not consider interior arrangement or use having no effect on exterior architectural features.
- (d) *Technical advice:* The Commission shall have the power to seek technical advice from outside its members on any application.
- (e) *Public hearings on applications for certificates of appropriateness:* The Commission shall schedule and hold a public hearing at which the proposed certificate of appropriateness is discussed. Notice of the hearing shall be published in the newspaper of general circulation. The subject property shall be posted; and all adjacent property owners of the subject property shall be notified of the request and hearing.
- (f) *Commission Actions to Applications for Certificate of Appropriateness:*
  - (1) Commission action: The Commission may approve the certificate of appropriateness as proposed, approve the certificate of appropriateness with any modifications it deems necessary, or reject it.

- a. The Commission shall approve the application and issue a certificate of appropriateness if it finds that the proposed material change(s) in the appearance would not have a substantial adverse effect on the aesthetic, historic, or architectural significance and value of the historic property or the historic district.

In making this determination, the Commission shall consider, in addition to any other pertinent factors, the following criteria for each of the following acts:

1. Reconstruction, alteration, new construction or renovation: The Commission shall issue certificates of appropriateness for the above proposed actions if those actions conform in design, scale, building materials, setbacks and site features, and to the Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings.
  2. Relocation: A decision by the Commission approving or denying a certificate of appropriateness for the relocation of a building, structure, or object shall be guided by:
    - i. Whether the present setting of the building contributes to its historic character and aesthetic interest.
    - ii. Whether there are definite plans for the area to be vacated and what the effect of those plans on the character of the surrounding area will be.
    - iii. Whether the building, structure or object can be moved without significant damage to its physical integrity.
    - iv. Whether the proposed relocation area is compatible with the historical and architectural character of the building, structure, site or object.
  3. Demolition: A decision by the Commission approving or denying a certificate of appropriateness for the demolition of buildings, structures, sites, or objects shall be guided by:
    - i. The historic, scenic or architectural/significance of the building, structure, site, or object.
    - ii. The importance of the building, structure, site, or object to the ambiance of a district.
    - iii. The difficulty or the impossibility of reproducing such a building, structure, site, or object because of its design, texture, material, detail, or unique location.
    - iv. Whether the building, structure, site, or object is one of the last remaining examples of its kind in the neighborhood or the city.
    - v. Whether there are definite plans for use of the property if the proposed demolition is carried out, and what the effect of those plans on the character of the surrounding area would be.
    - vi. Whether reasonable measures can be taken to save the building, structure, site, or object from collapse.
    - vii. Whether the building, structure, site, or object is capable of earning reasonable economic return on its value.
- (g) *Undue hardship*: When, by reason of unusual circumstances, the strict application of any provision of this article would result in the exceptional practical difficulty or undue economic

hardship upon any owner of a specific property, the Board of Zoning Appeals shall have the power to vary or modify strict provisions, so as to relieve such difficulty or hardship: provided such variances, modifications, interpretations remain in harmony with the general purpose and intent of said provisions, so that the architectural or historical integrity, or character of the property shall be conserved and substantial justice done. In granting variances, the Board of Zoning Appeals may impose such reasonable and additional stipulations and conditions as will, in its judgement, best fulfill the purpose of this article. An undue hardship shall not be a situation of the person's own making. The Planning Commission remains responsible for approving or denying the certificate of appropriateness, should a variance be requested of and approved by the Board of Zoning Appeals.

- (h) *Deadline for approval or rejection of application for certificate of appropriateness:* The Commission shall approve or reject an application for a certificate of appropriateness within 30 days after the scheduled public hearing. Failure of the Commission to act within said 30 days shall constitute approval.
- (i) *Denial of application for certificate of appropriateness:*
  - (1) In the event the Commission rejects an application, it shall state its reasons for doing so, and shall transmit a record of such actions and reasons, in writing, to the applicant. The Commission may suggest alternative courses of action it thinks proper if it disapproves of the application submitted. The applicant may make modifications to the plans and may resubmit the application at any time after doing so.
  - (2) In cases where the application covers a material change in the appearance of a structure which would require the issuance of a building permit, the rejection of the application for a certificate of appropriateness by the Commission shall be binding upon the building inspector or other administrative officer charged with issuing building permits and, in such a case, no building permit shall be issued.
- (j) *Requirement of conformance with certificate of appropriateness:* All work performed pursuant to an issued certificate of appropriateness shall conform to the requirements of such certificate. In the event work is performed not in accordance with such certificate, the City code enforcement staff or designee shall issue a cease-and-desist order and all work shall cease.
- (k) *Certificate of appropriateness void if construction not commenced:* A certificate of appropriateness shall become void if construction is not commenced within 12 months of date of issuance. A certificate of appropriateness shall be issued for a period of 12 months and is renewable for one 12-month extension with staff approval.
- (l) *Recording an application for certificate of appropriateness:* The Commission shall keep a public record of all applications for certificates of appropriateness, and of all the Commission's proceedings in connection with said application.
- (m) *Appeals:* Any person adversely affected by any determination made by Community Development staff in the enforcement or interpretation of this ordinance may appeal such determination to the Board of Zoning Appeals, within ten (10) calendar days of the written determination. Any person adversely affected by any determination made by the Planning Commission may appeal such determination to the Courts of South Carolina pursuant to the South Carolina Code of Laws, Section 6-29-900 et sequitur.



**SECTION 7. MAINTENANCE OF HISTORIC PROPERTIES AND BUILDING AND ZONING CODE PROVISIONS.**

- (a) *Ordinary maintenance or repair:* Ordinary maintenance or repair of any exterior architectural or environmental feature in or on an historic property to correct deterioration, decay, or to sustain the existing form, and that does not involve a material change in design, material or outer appearance thereof, does not require a certificate of appropriateness.
- (b) *Applicability of property maintenance code:* Property owners of historic properties or properties within historic districts shall be subject to the City's adopted property maintenance code.
- (c) *Affirmation of existing building and zoning codes:* Nothing in this article shall be constructed as to exempt property owners from complying with existing city building and zoning codes, nor prevent any property owner from making any use of this property not prohibited by other statutes, ordinances or regulations.

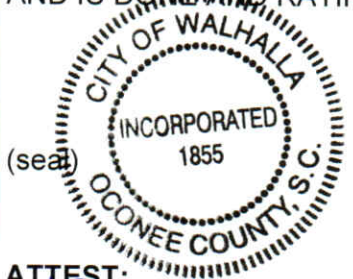
**SECTION 8. PENALTY PROVISIONS,**

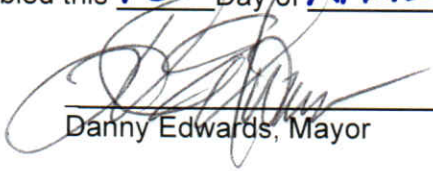
Violations of any provisions of this article shall be punished in the same manner as provided for punishment of violations of validly enacted ordinances of the city.

**SECTION 9. SEVERABILITY.**


In the event that any section, subsection, sentence, clause or phrase of this article shall be declared or adjudged invalid or unconstitutional, such adjunction shall in no manner affect the other sections, sentences, clauses, or phrases of this article, which shall remain in full force and effect, as if the section, subsection, sentence, clause, or phrase so declared or adjudged invalid or unconstitutional were not originally part thereof.

AND IS DONE AND RATIFIED in Council Duly assembled this 18<sup>TH</sup> Day of APRIL 2023.



  
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Danny Edwards, Mayor

ATTEST:

  
\_\_\_\_\_  
Timothy B. Burton, City Administrator

Introduced By: MR. EDWARDS

First Reading: MARCH 21, 2023

Public Hearing,  
Second Reading  
And Adoption: APRIL 18, 2023