

STATE OF SOUTH CAROLINA )

COUNTY OF OCONEE )

ORDINANCE 2022-X

CITY OF WALHALLA )

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

**Whereas,**

**Whereas,**

NOW THEREFORE: it is ordained and enacted that: by the Mayor and Council members of the Municipality 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**

SEE NEXT PAGE (1)

The purpose of this ordinance is:

- I. to protect, preserve and enhance the distinctive architectural and cultural heritage of City of Walhalla ;
- II. to promote the educational, cultural, economic and general welfare of the people of City of Walhalla ;
- III. to foster civic pride;
- IV. to encourage harmonious, orderly and efficient growth and development of City of Walhalla ;
- V. to strengthen the local economy; and
- VI. to improve property values.

It is the hope of the City of Walhalla that by encouraging a general harmony of style, form, proportion and material between buildings of historic design and those of contemporary design, the city's historic buildings and historic districts will continue to be a distinctive aspect of the City of Walhalla and will serve as visible reminders of the significant historical and cultural heritage of the City of Walhalla and State of South Carolina.

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. The ordinance can also be referenced in the zoning ordinance and adopted as a separate ordinance. If the general zoning ordinance is still operating under the authority of Title 5 it will be necessary to

**25.45.002 Intent and purpose.** The purpose of this chapter is to promote the public health, safety, and general welfare by providing for the identification, protection, enhancement, perpetuation, and use of improvements, buildings and their settings, structures, objects, monuments, sites, places, and areas within the City that reflect special elements of the City's architectural, artistic, cultural, engineering, aesthetic, historical, political, 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 older 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.

include or substitute those citations; e.g. SCCL 6-29-710, 6-29-870 et sequitur or SCCL 5-23-320.)

### **SECTION 3. DEFINITIONS** - ADD & INCORPORATE (NEXT PAGE)(2)

#### **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.

\* Note: Items appearing in parentheses and underlined are for instructional purposes

#### **Certificate of Appropriateness**

Document issued by the Board of Architectural Review, 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.

#### **Historic District**

An area, designated by the city council, upon the recommendation of the Board of Architectural Review and pursuant to the provisions of this ordinance.

#### **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/county) council or designated as a contributing property within a historic district.

#### **Public Space within a building**

Spaces designed for use by the public, such as auditoriums, court rooms, lobbies, entrance halls, etc. These spaces are usually gathering places as opposed to corridors for public use.

#### **Substantial Hardship**

Hardship, caused by unusual and compelling circumstances, based on one or more of the following:

- I. the property cannot reasonably be maintained in the manner dictated by the ordinance,
- II. there are no other reasonable means of saving the property from deterioration, or collapse, or
- III. 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. ARCHITECTURAL REVIEW BOARD ESTABLISHED**

#### **4.1 Creation**

To implement the provisions of this ordinance, there is hereby established a Board of Architectural Review, hereinafter referred to as the Board, for the City of Walhalla consisting of (5,7,9) members. Members shall be appointed by the City of Walhalla council upon the recommendation of the Board.

#### **4.2 Composition and Qualifications.**

All members of the board shall have a demonstrated interest in historic preservation. If available in the community, the board should have at least one member who is qualified as:

ADD

(2)

**Definitions.**

"Character-defining features" include the overall shape of the building, its materials, craftsmanship, decorative details and features, as well as the various aspects of its site and environment. These features capture the historic character of a building.

"Cultural landscape" means a 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" means the City of Walhalla's Community Development Department.

"Director" means the City's director of community development, or her/his designee.

"Local Design Guidelines or Style Guide" means 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 will 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.

"Historic resource assessment" means an historic building or site assessment report to evaluate whether a property meets the eligibility criteria set forth in SC State Historic Preservation Office or if a project will adversely affect an historic resource. An assessment shall be prepared by a consultant that meets the Secretary of the Interior's (SOI) professional qualifications standards, as defined in the Code of Federal Regulations, (36 CFR 61) or its successor.

"Historic context" means historical patterns that can be identified through the consideration of the history of the property and the history of the surrounding property. Historic context may also relate to an event or series of events, pattern of development, building form, architectural style, landscape, artistic value, use of materials and methods of construction, or be associated with a life of an important person.

"Historic integrity" means the ability of a property to convey its significance. Historic properties either retain integrity (that is, 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 monitor" means a professional, who meets the qualification standards contained in the Code of Federal Regulations (36 CFR Part 61), who is hired at the applicant's expense to oversee a project to ensure that the construction and modifications to a historic resource are consistent with the Secretary of the Interior's Standards or as conditioned in the project approval.

"Historic register (or the Register)" means the City's list of properties formally designated as historic resources after an application was filed by the property owner. The current list of designated properties will be kept on file at the City Clerk's office. Properties on the South Carolina and National Register are automatically eligible for the City's historic register.

"Historic resource" means 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.

"Replacement In-Kind" means the replacement of a building material or finish with the exact same materials as existing, or with an historically accurate replacement.

1. a historian, knowledgeable in local history,
2. an architect or if an architect is not available to serve, someone knowledgeable in building design and construction.

(Other designated members can be listed, such as, a lawyer, a real estate agent, engineer, and representative of the historical society.)

No members shall hold any other (municipal/county) office. S.C. Code 6-29-870(C). (A representative of the zoning commission could serve only as an ex-officio, non-voting member.)

Members shall assume their duties at the first regular meeting after their appointment. Members shall serve without compensation except for reimbursement for authorized expenses attendant to the performance of their duties. (Please include a reference to SC Code Section 6-29-1340 that discusses the educational requirements of BAR Members.)

#### **4.3 Terms of Office.**

The term of office for each member shall be two years. Any person who has served as a member of the Board for three consecutive terms shall not be eligible for reappointment for at least one year. A term of less than one year shall not be counted in determining eligibility for reappointment.

Membership shall be identified by place numbers 1 through (5/7/9). Terms of office for members in the odd-numbered places shall expire in odd numbered years; terms for even-numbered members expire in even numbered years, provided, however, that each member shall serve until his successor is appointed and installed.

#### **4.4 Removal.**

Any member of the Board may be removed by the city council, for repeated failure to attend meetings of the Board or for any other cause deemed sufficient by the city council. Consider, three (3) or more consecutive meetings or 50% of scheduled meetings in one year. (If the board will not meet monthly/bi-monthly, then the 2<sup>nd</sup> part will not work.)

#### **4.5 Appointment to Fill a Vacancy.**

If any place on the Board becomes vacant due to resignation, removal, or for any reason, the city council shall appoint a replacement within 60 days for the remainder of the unexpired term, subject to confirmation by the city council.

#### **4.6 Conflicts of Interest.**

Any member of the board who has a personal or financial interest, either directly or indirectly, in any property which is the subject of, or affected by, a decision of the Board shall be disqualified from participating in the decision of the Board concerning the property.

#### **4.7 Liability of Members.**

Any member of the Board acting within powers granted by the ordinance shall be relieved from personal liability for any damage and held harmless by the City of Walhalla. Any suit brought against any member of the Board shall be defended by a legal representative furnished by the city until the termination of the proceedings.

(Note: See appendix E of the Comprehensive Planning Guide for Local Governments, "Board of Architectural Review Rules of Procedure" that sets forth the officers and duties of each, a hearing procedure, an appeals procedure and requirements for records. Appendix G of the same publication contains a sample form for notice of a Board of Architectural Review Hearing. Appendix H has a

form for issuing a Stop Order to halt unapproved work.)

## **SECTION 5. POWERS AND DUTIES**

The responsibility of the Board is to promote the purposes and objectives of this ordinance, to review and recommend to city council the designation of individual historic properties and historic districts, and to review plans and applications, as hereinafter provided, for all construction within historic districts and construction or demolition pertaining to or affecting duly designated historic properties. The Board shall have the power to approve, approve with modifications or deny approval for such applications in accordance with the prescribed procedures and guidelines.

## SECTION 6. HISTORIC PROPERTY INVENTORY

The Board shall maintain a local inventory of buildings, structures, objects, and sites more than fifty years old. These records shall be available to the public.

## SECTION 7. DESIGNATION OF HISTORIC PROPERTIES

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PAGE (3)

### 7.1 Criteria for Historic Designation.

The Board shall review the local inventory and make recommendations for historic designation(s) to city council based on the following criteria.

ADD  
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**OWNER VOLUNTARILY AGREES &**

A property may be designated historic if it:

1. has significant inherent character, interest, or value as part of the development or heritage of the community, state, or nation; or
2. is the site of an event significant in history; or
3. is associated with a person or persons who contributed significantly to the culture and development of the community, state, or nation; or
4. exemplifies the cultural, political, economic, social, ethnic, or historic heritage of the community, state, or nation; or
5. individually, or as a collection of resources, embodies distinguishing characteristics of a type, style, period, or specimen in architecture or engineering; or
6. is the work of a designer whose work has influenced significantly the development of the community, state or nation; or
7. contains elements of design, detail, materials, or craftsmanship which represent a significant innovation; or
8. is part of or related to a square or other distinctive element of community planning; or
9. represents an established and familiar visual feature of the neighborhood or community; or
10. has yielded, or may be likely to yield, information important in pre-history or history.

(Note: These criteria are suggested, however, each community should review and revise them to reflect the needs and comprehensive plan for their community.)

### 7.2 Owner Notification.

Owners of properties proposed to be designated historic shall be notified in writing thirty days prior to consideration by city/county council. Owners may appear before the city council to voice approval or opposition to such designation.

(Additionally, the planning commission shall provide its formal comment to the council on ordinance adoption, amendment, and designation and may also serve as the entity conducting the required public hearing if so authorized by council.)



**Historic Register**

**Designation, Criteria and Procedures and Removal**

(A) Purpose and Intent. The purpose of the Walhalla historic register is to provide a means to preserve, protect and enhance historic resources within the community, including buildings, structures, sites, objects, districts and cultural or historic landscape features. All historic resources identified subsequent to the effective date of this chapter shall be added to the register pursuant to the procedures established in this chapter. Properties listed on the register may be identified on-site with an exterior marker or plaque displaying pertinent information about the property. The current list of historic resources on the register will be kept on file with the City Clerk.

(B) Designation Procedures.

(1) The property owner shall complete the application for the proposed designation as a historic resource and inclusion on the register on a form provided by the department, include all information required and file the application with the department.

(2) The BAR will review the application for designation. In its consideration of placement on the register, the BAR may request additional information and plans for any future planned changes to the structure. There shall be no application fee for placement on the register.

(3) Recordation of a written historic resource preservation agreement between the City and the property owner, acknowledging the owner's obligations and responsibilities to ensure preservation of the historic character of the resource shall be filed after the property is designated by the BAR for inclusion on the register. If the owner has applied for incentives, the recordation shall not occur until the owner's request, or the incentive has been acted upon. This agreement shall be recorded with the County and will apply to any subsequent owners. A property approved for the Register shall not be formally designated until the property owner executes the preservation agreement, and it is recorded with the County.

(C) Criteria for Historic Register Listing. Upon submittal of an application by the property owner(s), a building, grouping of buildings, structure, site, object, or district shall be considered for designation by the BAR if it meets criteria (1) and also one or more of criteria (2) through (11):

- (1) The owner of the property voluntarily agrees to the placement on the register;
- (2) It is listed on the National Register or the State Register;
- (3) It exemplifies the cultural, political, economic, social or historical heritage of the community;
- (4) It is identified with a person, events, culture or site significant in local, state or national history;
- (5) It is representative of the work of a notable builder, designer, architect, or artist including those of local importance;

(6) It embodies distinguishing architectural characteristics of a style, type, period or method of construction that exemplify a particular architectural style or way of life important to the City;

(7) It embodies elements that represent a significant structural, engineering, or architectural achievement or innovation;

(8) It has a unique location, a singular physical characteristic, or is an iconic visual feature or public view point within the City;

(9) Is one of the remaining examples in the City, region, state or nation possessing distinguishing characteristics of architectural, cultural or historical importance;

(10) Is an iconic landscape, garden, space or public view point that is significant to the history and heritage of the City; or

(11) Has yielded, or has the potential to yield, information important to the prehistory or history of the local area, South Carolina, or the nation.

(D) Findings of the BAR . Upon review of the application and any supporting material, the BAR shall adopt findings that the registered property does or does not meet criteria (1), as well as one or more of criteria (2) through (11) of subsection (C) above.

(E) Removal from the Historic Register. Removal from the register can be initiated by the property owner or by the City. An historic resource assessment may be requested as part of the application and will be paid for by the applicant. After the appropriate review, pursuant to the SC Historic Preservation Office, the decision to remove a resource from the register shall be considered at a public hearing by the City Council following a recommendation from the BAR, which shall be considered by the City Council during its deliberation regarding the proposed removal.

### **7.3 Identification on Town Zoning Map.**

All locally designated historic properties and historic districts shall be clearly shown on the zoning map.

### **7.4 Opposition to Designation**

Any property owner may object to the decision by the city council to designate his property as historic by filing suit against the City of Walhalla before the Courts of the State of South Carolina.

(Note: This suit must be based on procedural nonconformities in the designation process or on the misapplication of the criteria for designation as specified in the city's ordinance or under SCCL 6-29-870.0 not simply on the desire not to be included in the locally designated district. In the case of individual landmarks, the basis for challenging designation is the same.)

## **SECTION 8. JURISDICTION OF THE BOARD OF ARCHITECTURAL REVIEW**

The jurisdiction of the Board, in general, is the city limits. The jurisdiction of the Board for the recommendation of properties to be designated historic is the City of Walhalla limits. The jurisdiction of the Board for the review of proposed alteration to exteriors of buildings, new construction, and demolition is the individual properties and areas that have been designated by the City of Walhalla council as historic.

## **SECTION 9. NOMINATIONS TO THE NATIONAL REGISTER OF HISTORIC PLACES**

The Board may conduct first review and evaluation of all proposed nominations for the National Register of Historic Places for properties that are within its jurisdiction, prior to consideration by the State Board of Review. The Board may send their recommendations to the State Historic Preservation Office for consideration at the meeting of the State Board of Review. The Board shall not nominate properties directly to the National Register; only the State Board of Review shall have this final review authority unless expressly authorized by federal statute.

## **SECTION 10. CERTIFICATE OF APPROPRIATENESS**

A Certificate of Appropriateness is required before a building permit can be issued for the demolition, new construction, exterior alteration, modification or addition to a designated historic property. Any building permit not issued in conformity with this ordinance shall be considered void.

Application for a Certificate of Appropriateness must be signed by the owner or his authorized representative and the form must be signed by the chairman or vice-chairman of the Board stating its approval, denial, or approval with conditions and the reasons for the decision.

### **10.1 Required Procedure.**

An application for a Certificate of Appropriateness shall be obtained from Community Development Department, and when completed, filed with the appropriate administrative official as designated by the Board.

#### **10.2 Time Limits.**

Applications for a Certificate of Appropriateness shall be considered by the Board at its next regular meeting, provided they have been filed at least seven (7) calendar days before the regularly scheduled meeting of Board. If the Board fails to take action upon any application within 45 days after the complete application is received, the application shall be considered approved, except in cases where the Board has postponed an application to demolish a structure under the provisions contained in this ordinance.

#### **10.3 Board Action on Application.**

The Board shall review the application, using the design guidelines appearing in Section 11 of this ordinance to make findings of fact to decide whether or not the applicant's plans are appropriate. The decision of the Board, along with the reasons for each decision, will be recorded in the minutes and will be available upon request as a public reference for preservation procedures.

#### **10.4 Contents of Application.**

The Board shall, in its Rules of Procedure, require data as are reasonable and necessary to determine the nature of the application. An application shall not be considered complete until all the required data have been submitted.

#### **10.5 Notification of Affected Property Owners.**

Prior to the issuance of an approval or denial of a Certificate of Appropriateness, the Board shall inform the owners of any property likely to be materially affected by the application, and shall give the applicant and such owners an opportunity to be heard. (Would the City/Council prefer a set radius of notification? Such as, adjacent property owners, set number of feet radius, posting the property... I assume the opportunity to be heard would be a public hearing or public comment section at the scheduled meeting.)

#### **10.6 Submission of a New Application.**

If the Board determines that a Certificate of Appropriateness should be denied, a new application affecting the same property may be submitted only if substantial change is made in the plans for the proposed work. (Consider a waiting period or substantial change – a new application affecting the same property may not be submitted for one (1) year from the date of denial, unless the request contains substantial changes that address the Board's stated reasons in the originally denied application.)

#### **10.7 Maintenance, Repair, and Interior Projects.**

Nothing in this document shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature of structures designated as historic when that repair does not involve a change in design, material, color, or outer appearance of the structure. The Board shall not consider the interior arrangements or alterations to the interior of a building unless the interior of a public building or the public space of a private building is specifically described and designated as historic. The Board may authorize a staff member to approve minor projects involving repairs and ordinary maintenance that do not alter design, materials, color or the outer appearance of a structure or interior projects not subject to design review.

#### **10.8 Fines and Penalties.**

The system of fines applied by the City of Walhalla\_for violation of the building code will apply to violations of this ordinance.

### **10.9 Substantial Hardship.**

In the event a Certificate of Appropriateness is denied, the property owner may apply for an exemption based on the substantial hardship of maintaining the property according to the design guidelines for historic properties. Substantial hardship is to be considered by the **Commission** where one or more of the following unusual and compelling circumstances exists:

- a. the property cannot reasonably be maintained in the manner dictated by the ordinance,
- b. there are no other reasonable means of saving the property from deterioration, or collapse, or
- c. 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.\* (Planning Commission, BAR Board or Board of Zoning Appeals (BZA)? Often these go to the BZA as the applicant is appealing the zoning ordinance's requirements.)

\* While the Courts have consistently upheld designating and enforcing ordinance requirements on properties owned or operated by religious institutions and not-for-profit organizations, it is sometimes in the overall interest of community preservation efforts to specifically recognize that such institutions and organizations, in addition to private individuals, are subject to economic hardship issues.

The owner may be required to submit documents to show that he cannot comply with the design guidelines and earn a reasonable rate of return on his investment in the property. Information required may include:

1. costs of the proposed development with and without modification needed to comply with the design guidelines as determined by the Board,
2. structural report and/or a feasibility report,
3. market value of the property in its present condition and after completion of the proposed project,
4. cost of the property, date purchased, relationship, if any, between seller and buyer, terms of financing,
5. for the past two years, annual gross income from the property with operating and maintenance expenses, depreciation, and annual cash flow before and after debt service during that time, and
6. other information considered necessary by the Board to determine whether or not the property may yield a reasonable return.

### **10.10 Demolition.**

If the Board denies, or postpones for 180 days, a request to demolish a historic building, the Board shall work closely with the owner to find an appropriate use for the property, to help find a buyer or to obtain funding for rehabilitation, including low interest loans or grants. The Board shall inform the community concerning the threat to the building, its value as part of the fabric of the community and, through publicity and contacts with civic groups, seek to provide assistance in preserving the property.

## **SECTION 11. DESIGN GUIDELINES**

### **11.1 Intent.**

It is the intent of this ordinance to ensure, insofar as possible, that properties designated as historic shall be in harmony with the architectural and historical character of the City of Walhalla. In granting a Certificate of Appropriateness, the Board shall take into account

the architectural and historical significance of the structure under consideration and the exterior form and appearance of any proposed additions or modifications to that structure as well as the effect of such change or additions upon other structures in the vicinity.\*

\* (The Board can issue specific design guidelines for separately designated areas containing different categories of resources. Usually these guidelines are adopted by council.)

### **11.2 The Secretary of the Interior's Standards for Rehabilitation.**

When considering an application for a Certificate of Appropriateness for new construction, alteration, repair, or restoration, the Commission shall use the Secretary of the Interior's Standards for Rehabilitation as guidelines in making its decisions. In addition, the Board may adopt more specific guidelines for local historic districts and local historic buildings. These guidelines serve as the basis for determining the approval, approval with modifications, or denial of an application. (Planning Commission or BAR Board?)

The Secretary's Standards for Rehabilitation are:

1. A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.
2. The historic character of a property shall be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.
3. Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other buildings, will not be undertaken.
4. Changes to a property that have acquired historic significance in their own right will be retained and preserved.
5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.
6. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.
7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
8. Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.
9. New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale, and proportion, and massing to protect the integrity of the property and its environment.

10. New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

**SECTION 12. APPEALS**

Any person may appeal a decision of the Board to the Courts of South Carolina pursuant to the South Carolina Code of Laws, Section 6-29-900 et sequitur. (May wish to add that the BAR can review written appeals of City staff's decisions.)

AND IS DONE AND RATIFIED in Council Duly assembled this \_\_\_\_\_ Day of \_\_\_\_\_ 2022.

\_\_\_\_\_  
Danny Edwards, Mayor

(seal)

**ATTEST:**

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

Introduced By: \_\_\_\_\_

First Reading: \_\_\_\_\_

Public Hearing,  
Second Reading  
And Adoption: \_\_\_\_\_



# DRAFT CONSIDERATIONS

**25.45.008 Incentives to Properties on the City's Historic Register.** Owners of historic resources listed on the register are eligible to apply for the following preservation benefits. The consideration of granting benefits shall occur at a public hearing and the granting of any benefit shall be conditioned upon compliance with the Secretary of the Interior's Standards for Rehabilitation; and upon the recordation of a written agreement between the City and the property owner that ensures preservation of the historic resource's character defining features and identifies any historic incentives granted for the property. Except as described below, the BAR shall conduct a noticed public hearing on design review applications. However, the Planning Commission shall be the body to consider the granting of preservation incentives for all projects located in the downtown specific plan area and for projects for which the Planning Commission is the primary discretionary review authority, such as approval of a conditional use permit. If a project would otherwise not be subject to design review, except for the request for a preservation incentives, preservation incentives for the project may be reviewed through administrative design review as provided in Section 25.05.040 (B)(3), except that commercial parking reduction requests may not be granted through administrative design review and may only be granted consistent with the procedures set forth in subsection (A) below. Except as provided below, the notice of public hearing for a project involving preservation incentives shall include a statement that the applicant is requesting approval of preservation incentives and identify the requested benefits. A request for preservation incentives in conjunction with an application to modify an historic resource must receive a

recommendation from the BAR. If a property owner is seeking placement on the register concurrently with the review of the preservation incentive, then formal placement on the register can be noted as a condition of approval of the preservation incentives.

(A) **Parking.** The following benefits are subject to BAR approval, except when a conditional use permit is required for the project, in which case the City Council shall be the final approval authority, with a recommendation from the Planning Commission.

(1) Single-family dwellings that are nonconforming due to substandard parking shall not be required to provide parking in accordance with Chapter 25.52 when additions are proposed, provided that such additions do not exceed more than fifty percent of the existing square footage of the structure and that at least one parking space has been provided on-site. When a second residential unit is being added to an historic resource under the provisions of Chapter 25.17 (Second Residential Units), parking shall be in accordance with the requirements of that chapter unless modified by the City Council for purposes of achieving the goals of this chapter.

(2) Multiple-family dwellings that are nonconforming due to substandard parking shall not be required to provide parking in accordance with Chapter 25.52 when additions are proposed, provided that such additions do not exceed more than fifty percent of the original square footage of the structure and that at least half of the parking spaces required in Chapter 25.52 have been provided.

(3) Projects involving modifications to properties listed on the register that are located in commercial zones may be granted a conditional use permit to allow a reduction in parking requirements up to a maximum of seventy-five percent of the otherwise required parking spaces if the project complies with Secretary of the Interior's Standards (SOIS) or Local Design Guidelines or Style Guide. If the requested incentive involves a reduction of 15 or more spaces, a parking demand study may be required by the City to evaluate the existing or proposed use, potential neighborhood impacts and the available off-site and on-street parking when considering proposed parking reductions.

(B) **Building Permit and Planning Application Fees.** All City building permit and planning application fees for projects involving resources on the register will be refunded if, following the final inspection and finalization of the building permit, the City finds the changes are consistent with approved plans and preserve the historic character of the subject building. Variance fees are not subject to refund unless the variance is required to restore and/or maintain an original historic feature of the building. A request for fee refunds does not need to be included in any public notice relating to the project.

(C) **Building Code Deviations.** The City may allow deviations from Title 14 of this code when findings can be made by the Director and Building Official that the historic resource is in conformance applicable state and local codes. A request for this incentive does not need to be included in any public notice relating to the project.

(D) **Additions to Commercial Structures.** Commercial historic resources on the register may add up to fifteen percent of the existing floor area, not to exceed five hundred square feet, without providing additional parking and without bringing any existing nonconformities into compliance with current zoning regulations.

(E) **Setback Flexibility.** Additions to historic resources on the register shall be allowed to maintain setbacks up to the line of existing encroachments. Additionally, rear yard setback relief for new structures or additions to existing resources on the register that are proposed to be constructed within five feet of a rear property line may be approved subject to design review. However, additions to structures or new structures must comply with oceanfront and/or oceanfront bluff edge setbacks and shall be evaluated to ascertain potential negative impacts on natural resources and ESHA and to address those impacts with appropriate setbacks.

(F) **Density Bonuses.** Properties listed on the register that are located in the GR R10 zone, or the CC, may add residential units at a density of one unit per one thousand square feet of lot area, or in the case of properties within the downtown specific plan boundaries in accordance with the applicable provisions therein, provided the historic resource is preserved. Residential density credit for historically

significant buildings shall be based on the lot size on which the structure is located, and shall not include adjoining parcels or lots under the same ownership; these residential density credits shall not apply if the historically significant building is demolished.

(G) Single-Family Density Bonuses. Properties located in the R15 R25 zone may be eligible for residential density bonuses for a second residential unit. See Section 25.17 for applicable provisions.

(H) Open Space Requirements. Properties that do not currently provide the required open space area may be enlarged or expanded without providing the required open space if it is determined that the proposed alterations will not diminish or detract from the historic significance of the resource.

(I) Official Recognition. Properties on the register shall be eligible for special designation plaques. A request for this incentive does not need to be included in any public notice for the project. Properties on the National or State Register will automatically be qualified.

(J) Priority Processing. Properties shall receive priority building and planning/zoning division plan check processing. This incentive does not need to be included in any public notice for the request.

(K) Financial Incentives. Owners of properties on the register are eligible to apply for other local, state and national financial benefits, if any.

(L) Bed and Breakfast incentives. Refer to Section 25.22.050.

(M) Relief from Nonconforming Structure Requirements.

(1) Additions that exceed fifty percent of the existing structure without bringing existing nonconforming building height, parking, vehicular access and setbacks (as noted in 25.45.008(E) of this chapter) into compliance if it is determined that such an addition is consistent with the Secretary of the Interior's Standard's (SOIS) and will not diminish or detract from the historic significance of the original structure, and if such addition is found to be compatible in scale and character with the surrounding neighborhood, and if the additions do not increase the size or degree of the non-conformities. Residential structures that are altered by or have additions of more than fifty percent shall not necessarily be eligible for shoreline or bluff protection.

(2) Owners of properties located in multifamily zones, where only one unit currently exists, may apply for one or more additional units without bringing existing nonconformities into conformance, if it is determined that the additional unit(s) will not diminish or detract from the historic significance of the original structure, and if such additional unit(s) is(are) found to be compatible in scale and character with the surrounding neighborhood, and if the additional unit(s) conforms to the current development standards. Requests for this benefit shall be subject to design review approval with a recommendation by the BAR.

#### **25.45.010 Procedures for alteration of an historic resource.**

(A) Review. Prior to the issuance of a building permit to remodel or alter any historic resource, City staff shall review the proposed changes to determine if the proposal is consistent with the design review criteria, the Secretary of the Interior's Standards (SOIS) or the City's Local Design Guidelines. Interior changes shall not be reviewed unless the changes will alter a character defining features of the historic resource or if the interior area is publicly accessible.

(B) If the project is found to be consistent with the SOIS or the City's Local Design Guidelines, but otherwise requires design review pursuant to Section 25.05.040(B), the BAR shall make a recommendation to the approval authority prior to design review. Repair or replacement of existing materials with in-kind or historically appropriate materials, in the same location, does not require design review approval. Minor alterations may be subject to Section 25.05.040 (B)(3).

(C) If staff believes the project is not consistent with the SOIS and/or the City's Local Design Guidelines, then after the appropriate documentation has been prepared pursuant to SHPO, design review shall be required. The BAR shall make a recommendation to the approval authority prior to design review.

(D) Historic Resource Assessment Report. If an historic resource assessment has not been prepared for the property, the BAR or the design review authority may require that an historic resource assessment, paid for by the City, be prepared prior to the review of the project to evaluate the project impacts to the property.

(E) Environmental Determination. During its review, the design review authority will adopt the appropriate environmental determination pursuant to DHEC. An historic resource assessment may be required to evaluate a project's potential environmental impact. Projects that comply with the SOIS and the local design guidelines may be eligible for a categorical exemption.

(F) Pre-construction Meeting. Prior to the issuance of a building permit, a preconstruction meeting shall occur and shall consist of the property owner, contractor, inspector assigned to inspect the structure, a City staff member, the project architect/designer and historic monitor (if required). This meeting will be used to convey the obligations and responsibilities of the property owner and his or her contractors and architects in protecting and avoiding destruction of the identified historic fabric that is to be retained.

#### **25.45.012 Historic property disclosure.**

(A) Agent Disclosure. If a property has been included in the register, the owner of the property or the owner's representative shall, in any real property transaction, provide the buyer of the property with notice informing the buyer of the property's listing on the register. Distribution of a current Real Property Report issued to the buyer shall satisfy the requirements of this subsection.

(B) Penalty. Any person who violates the provisions of subsection (A) of this section shall be subject to the penalties and remedies specified in \_\_\_\_\_ of this code.

**25.45.014 Procedures for demolition of an historic resource.** The following procedures shall be applied to all properties identified as an historic resource.

(A) Application. An application for demolition of an historic resource shall be filed with the department. Demolition permits require that the applicant obtain a permit and are subject to compliance with the provisions of SCDHEC and SHPO, unless exempt.

(B) Heritage Committee Review. Upon receipt of a complete application to demolish an historic resource, the department shall, within thirty days, schedule the application to be reviewed by the BAR for a recommendation to the design review authority.

(C) Design Review Action. After the appropriate environmental documentation has been prepared pursuant to DHEC, SHPO, and the BAR has provided a recommendation, the design review authority shall address any project impacts and identify project alternatives which may mitigate the defined project impacts. The design review authority shall consider project mitigation measures. After conducting the public hearing, the design review authority shall either approve or deny the permit.

(D) Public Notice. Public notice for the design review hearing shall be subject to the provisions of Section 25.05.065, and Chapter 25.07.

(E) Demolition Approval. If the design review authority approves a permit for demolition, the permit is subject to a waiting period of ninety calendar days to consider relocation and/or documentation unless building relocation is included as part of the project mitigation measures as adopted by the design review authority.

(1) During the waiting period, the applicant shall advertise the proposed demolition in a paper of general circulation in the City once a month for the first two months following the design review hearing. Such advertisement shall be one-quarter page in size and shall include a photograph of the resource, the address at which the resource proposed for demolition is located, information as to how arrangements can be made for relocation, and the date after which a demolition permit may be issued. Evidence of this publication must be submitted to the department prior to issuance of a demolition permit.

(2) Any application for relocation of the resource shall be filed within the specified waiting period as determined by the design review authority.

(3) The design review authority may extend the waiting period up to one hundred eighty days if it determines that relocation is imminent.

(4) During the continuance period, the BAR may investigate relocation of the building or modification of the building for future uses in a way which preserves the architectural and historical integrity of the building.

(5) During the continuance period, the applicant may pursue plan approval.

(F) Findings. Prior to the issuance of a demolition permit, the design review authority shall make one of the following findings:

(1) The action proposed is consistent with the purposes of this chapter and the historic resources element of the general plan; or

(2) There are no reasonable alternatives to demolition.

**25.45.016 Unsafe or dangerous conditions.** None of the provisions of this chapter shall be construed to prevent any demolition necessary to correct the unsafe or dangerous conditions of any structure, feature, or part thereof, when such condition has been declared unsafe or dangerous by the building official or the fire chief and where the proposed measures have been declared necessary and permitted by such official to correct such conditions. A City permit is required prior to demolition. However, only such work as is necessary to correct the unsafe or dangerous condition may be performed. In the event any structure or other feature shall be damaged by fire or other calamity, the building official may specify, prior to the design review authority's review, the amount of repair necessary to correct any unsafe conditions.

**25.45.018 Property owned by public agencies.** Public agencies that own property in the City shall be notified of the provisions of this chapter and encouraged to seek the advice of the BAR before the construction, alteration, demolition, or relocation of any historic resource.

**25.45.020 Property maintenance required.**

(A) The City's intention is to preserve from deliberate or inadvertent neglect the exterior portions of any historic resource and all interior portions thereof whose maintenance is necessary to prevent deterioration of an historic resource. No owner of any historic resource shall fail to undertake such repairs or maintenance as are necessary to prevent significant deterioration of the property beyond the condition of the property on the effective date the property is identified as an historic resource.

(B) No owner, lessee, or occupant of any property listed on the register shall fail to comply with all applicable provisions of this code and other ordinances of the City regulating property maintenance, including, without limitation, weed control, garbage, and housing.

(C) Before the City Attorney files a complaint in a court of competent jurisdiction for failure to maintain the historic property, the director shall notify the property owner, lessee, or occupant of the need to repair, maintain, or restore the property, and shall give the owner a minimum of thirty days within which to perform such work.

**25.45.022 Illegal construction - penalty for violations.** The following penalties shall be determined by the City Council after a public hearing, following a recommendation from the BAR

(A) The removal or demolition of any structure listed on the register without an approved demolition permit shall result in a five-year stay in the issuance of a building permit for any new construction at the site previously occupied by the historic structure. For the purposes of this section, "demolition" means any act which removes all the existing exterior walls, cladding and roof framing, including complete destruction/removal of the historic structure.

(B) In addition to the repayment or restoration provisions of Section 25.45.006(F), any person who demolishes a structure listed on the City's register, either in whole or in part, may be subject to an administrative penalty of up to one hundred thousand dollars for each violation. This determination shall be based on the extent of the demolition and the benefits received, including setback and parking incentives.

## **SECTION 2.**

(u) Outlining of the outside of buildings or portions thereof with lights. (If such outlining with lights is proposed on a building listed on the register, then the Heritage Committee shall make a recommendation to the approval authority prior to its design review).

(H) Design Review Criteria.

(6) Historic Preservation. Destruction or alteration to historic resources should be avoided whenever possible. See section 25.45 for more information.

## **SECTION 3.**

(0) New second residential units shall not be attached to any historic structure listed on the Historic Register, unless provided by state law.

## **SECTION 4.**

(Y) Residential uses (excluding time-share uses) subject to the following standards:

(1) There shall be at least two thousand square feet of lot area for each dwelling unit; however, historically significant houses that appear on the city's historic register may add residential units at a density of one unit per one thousand square feet of lot area, structure is preserved. Residential density credit for historically significant buildings shall be based on the lot size on which the structure is located, and shall not include adjoining parcels or lots under the same ownership; these residential density credits shall not apply if the historically significant building is demolished,

#### **SECTION 5.**

Bed and breakfast inns, pursuant to this chapter, shall be subject to the approval of a conditional use permit as provided for in Section 25.05.030 of this title. The approval of such conditional use permit shall be subject to the findings set forth in Section 25.22.060 of this chapter. The applicant(s) for a conditional use permit shall be the owner(s) of the real property on which the bed and breakfast inn is proposed to be established, or his/her authorized agent. The historic register properties shall be listed on the city's historic register at the time of conditional use permit application. The heritage committee shall make a recommendation to the planning commission prior to its evaluation of a conditional use permit application to establish a bed and breakfast inn and to request parking reduction incentives under this chapter.

#### **SECTION 6.**

The following incentive may be allowed for proposed bed and breakfast inns, in addition to those specified in Chapter 25.45 of this title, Historic Preservation. The granting of such incentive shall be conditioned upon a written agreement between the city and property owner that ensures preservation of the building's historic character. Structures listed on the register, which are intended to be used as bed and breakfast inns and are located in the residential zones, may be granted a conditional use permit to allow a reduction in parking requirements based on the degree to which the historic character of the building is preserved and/or enhanced. Properties on the City's register may be granted up to a seventy- five percent reduction. Such incentive shall be reviewed by the heritage committee, and the committee shall make recommendations to the planning commission. After reviewing the heritage committee recommendations at a public hearing, the planning commission shall make recommendations to the city council, which has the final approval authority.

Applications for parking reduction shall include methods to be employed to encourage use of alternative forms of transportation. Whenever a parking reduction is granted, the applicant shall be required to provide and/or promote use of alternate forms of transportation for both employees and guests.

#### **SECTION 7.**

"Historic structure," for the purpose of this chapter means any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or

(4) Individually listed on the Walhalla Historic Register.

#### **SECTIONS.**

(3) BAR Review Required. If a mural is proposed on a historic structure identified on the city's Historic Register, the BAR shall review and make a recommendation regarding the mural proposal prior to the review of the arts commission.

#### **SECTION 9.**

(k) Approved lighting fixtures for any historic resource listed on the register. Nonconforming lighting fixtures consistent with the character of a historic resource on the register may be exempted, subject to the approval of the community development director. Approved fixtures shall be consistent with the architectural period and architecture style of the of the resource and shall not exceed seven hundred fifty lumens (sixty watt incandescent equivalent) and three thousand Kelvin.