

SPECIAL MEETING OF FLORENCE CITY COUNCIL

WEDNESDAY, JANUARY 12, 2011 - 9:30 A.M.

CITY-COUNTY COMPLEX, CITY MANAGER'S CONFERENCE ROOM, #605

FLORENCE, SOUTH CAROLINA

AMENDED AGENDA

I. CALL TO ORDER

II. INVOCATION

Pledge of Allegiance to the American Flag

III. ORDINANCES IN POSITION

a. Bill No. 2011-04 – Second Reading

An Ordinance for proposed text amendments to Article 7, General and Ancillary Regulations, of the Zoning Ordinance to adopt the model Historic Preservation Ordinance recommended by the State Historic Preservation Office, one of the steps necessary for the City to obtain certified local government status.

IV. EXECUTIVE SESSION

a. Legal Matter

V. ADJOURN

FLORENCE CITY COUNCIL MEETING

VI. d.
Bill No. 2011-04
Second Reading

DATE: December 13, 2010

AGENDA ITEM: First Reading, Ordinance to amend the Zoning Ordinance

DEPARTMENT/DIVISION: Urban Planning & Development

I. ISSUE UNDER CONSIDERATION

An amendment to Article 7, General and Ancillary Regulations of the Zoning Ordinance relating to an Historic Preservation Ordinance.

II. CURRENT STATUS/PREVIOUS ACTION TAKEN:

1. An historic preservation ordinance for the City is currently nonexistent.

III. POINTS TO CONSIDER

1. The City seeks Certified Local Government (CLG) Status in order to qualify for federal historic preservation grants.
2. An historic preservation ordinance must be adopted in order for a city to become a CLG.
3. South Carolina currently has thirty CLGs (29 cities, 1 county).
4. Grant awards for eligible projects usually range from \$2,500 to \$25,000.


IV. OPTIONS

1. Approve the request as presented based on the information submitted.
2. Defer the request should additional information be needed.
3. Suggest other alternatives
4. Deny the request.

IV. ATTACHMENTS

1. Ordinance

Phillip M. Lookadoo, Director
Urban Planning & Development



David N. Williams
City Manager

ORDINANCE NO. 2010-_____

AN ORDINANCE FOR PROPOSED TEXT AMENDMENT TO ARTICLE 7, GENERAL AND ANCILLARY REGULATIONS, OF THE ZONING ORDINANCE TO ADOPT THE MODEL HISTORIC PRESERVATION ORDINANCE RECOMMENDED BY THE STATE HISTORIC PRESERVATION OFFICE, ONE OF THE STEPS NECESSARY FOR THE CITY TO OBTAIN CERTIFIED LOCAL GOVERNMENT STATUS

WHEREAS, the City seeks Certified Local Government (CLG) Status in order to qualify for federal historic preservation grants;

WHEREAS, an historic preservation ordinance must be adopted in order for a city to become a CLG and qualify for historic preservation grants;

WHEREAS, Section 6-29-870 of the South Carolina Code of Laws authorizes municipalities to establish by ordinance a historic preservation code administered as part of the its zoning laws and to establish a Board of Historical Review to administer the same; and

WHEREAS, we hereby find and conclude that the preservation and protection of historic districts, neighborhoods, sites, structures and areas is in the best interest of the citizens of Florence;

NOW, THEREFORE, be it ordained by the City Council of the City of Florence, in meeting duly assembled and by the authority thereof, that the following Historic Preservation Ordinance be, and the same is hereby, adopted and that the Zoning Atlas of the City of Florence shall include the ordinance as set out below.

Section 7.11 Historic Preservation Ordinance

1. TITLE

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

2. PURPOSE

The purpose of this ordinance is:

- (1) to protect, preserve and enhance the distinctive architectural and cultural heritage of the City of Florence;
- (2) to promote the educational, cultural, economic and general welfare of the people of the City of Florence;

- (3) to foster civic pride;
- (4) to encourage harmonious, orderly and efficient growth and development of the City of Florence;
- (5) to strengthen the local economy; and
- (6) to improve property values.

It is the hope of the City of Florence 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 Florence and will serve as visible reminders of the significant historical and cultural heritage of the City of Florence and State of South Carolina.

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

3. DEFINITIONS

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.

Certificate of Historical Appropriateness

Document issued by the Board of Historical 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 City Council, upon the recommendation of the Board of Historical 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 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:

- 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.

4. BOARD OF HISTORICAL REVIEW ESTABLISHED

4.1 Creation

To implement the provisions of this ordinance, there is hereby established a Board of Historical Review, hereinafter referred to as the Board, for the (use the relevant city/county name) consisting of five (5) members. Members shall be appointed by the Florence City Council giving consideration to the recommendation of the Board.

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:

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.

As required by S.C. Code Section 6-29-870(C), no members shall hold any other municipal office or hold any position in the city.

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.

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. 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.

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.

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 Florence. 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.

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

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.

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.

7.2 Owner Notification

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

7.3 Identification on City 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 Florence before the Courts of the State of South Carolina.

SECTION 8. JURISDICTION OF THE BOARD OF HISTORICAL 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 Florence 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 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 HISTORICAL APPROPRIATENESS

General

A Certificate of Historical 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 Historical 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 (See Article 2, Section 2.9-8).

10.1 Required Procedure

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

10.2 Time limits

Applications for a Certificate of Historical 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 such data and information as is reasonable and necessary to determine the nature of the application. An application shall not be considered complete until the required data has been submitted.

10.5 Notification of Affected Property Owners

Prior to the issuance of an approval or denial of a Certificate of Historical 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.

10.6 Submission of a new Application

If the Board determines that a Certificate of Historical 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.

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 Florence for violations of the zoning ordinance as found in Section 8 thereof will apply to violations of hereof.

10.9 Substantial Hardship

In the event a Certificate of Historical 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 Board where one or more of the following unusual and compelling circumstances exist:

- 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.

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 Florence. 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.

11.2 The Secretary of the Interior's Standards for Rehabilitation

When considering an application for a Certificate of Historical Appropriateness for new construction, alteration, repair, or restoration, the Board 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.

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 seq.

That this Ordinance shall become effective seven days after its approval and adoption by the City Council of the City of Florence and posting of this amendment in the official Zoning Atlas.

ADOPTED THIS _____ DAY OF _____, 2010

Approved as to form:

James W. Peterson, Jr.
City Attorney

Stephen J. Wukela,
Mayor

Attest:

Dianne M. Rowan
Municipal Clerk