

REGULAR MEETING OF FLORENCE CITY COUNCIL
MONDAY, JANUARY 18, 2011 - 1:00 P.M.
CITY-COUNTY COMPLEX, CITY COUNCIL CHAMBERS
FLORENCE, SOUTH CAROLINA
ADDENDUM TO THE AGENDA

VII. INTRODUCTION OF ORDINANCE

- d. Bill No. 2011-08 – First Reading**
An Ordinance to amend Chapter 16 and Section 4-8 of the Code of Ordinances of the City of Florence, South Carolina and Section 7.11 of the Zoning Ordinance in order to change the City of Florence Design Review Board so that it can serve as the Board of Review for both the overlay districts established by Section 2.9 of the Zoning Ordinance and the Historic Preservation Ordinance found in Section 7.11 of the Zoning Ordinance.

X. EXECUTIVE SESSION

- a. Personnel Matter**

FLORENCE CITY COUNCIL MEETING

DATE: January 18, 2011

AGENDA ITEM: First Reading, Ordinance to amend Chapter 16 and Section 4-8 of the City Code and Section 7.11 of the Zoning Ordinance

DEPARTMENT/DIVISION: Urban Planning & Development

I. ISSUE UNDER CONSIDERATION

An amendment to the recently passed Article 7 of the Zoning Ordinance relating to an Historic Preservation Ordinance and City Code Sections found in Chapter 16 and in Section 4.8 in order to change the Design Review Board so that it can serve as the Board of Review for both the overlay districts created under Section 2.9 of the Zoning Ordinance and for historic preservation governed by Section 7.11 of the Zoning Ordinance.

II. CURRENT STATUS/PREVIOUS ACTION TAKEN:

1. Council enacted the new Section 7.11 governing historic preservation for the City at its meeting on January 12, 2011 with instructions to staff to propose amendments to the City Code and the Zoning Ordinance needed to make the Design Review Board the board of review for both historic preservation under Section 7.11 and the overlay districts under Section 2.9.

2. In order to meet the February 1, 2011 deadline for this years cycle of grants and Certified Local Government (CLG) Status, a special meeting of the Planning Commission, with notice of the required public hearing, has been called for January 31, 2011. At that meeting, before City Council considers these amendments for second reading, the Planning Commission will consider public input and make a recommendation to City Council concerning these proposed amendments for possible action on January 31, 2011.

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 and the board of review appointed 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.

5. These amendments are designed to bring the review board functions for both the overlay districts and for historic preservation together under the Design Review Board and make the changes necessary for that Board to lawfully fulfill both functions. This will eliminate the need

for applicants to appear before two different boards and will streamline the application and approval process.

IV. OPTIONS

1. Approve the request as presented on first reading based on the information submitted and consider it on second reading at the meeting on January 31, 2011 at 3:00 after receiving the recommendation from the Planning Commission.

2. Defer the request should additional information be needed.

3. Suggest other alternatives

4. Deny the request.

IV. ATTACHMENTS

1. Ordinance amending the City Code and the Zoning Ordinance with highlighting showing all changes.

2. Ordinance amending the City Code and the Zoning Ordinance without highlighting.

Phillip M. Lookadoo, Director
Urban Planning & Development

David N. Williams
City Manager

ORDINANCE NO. 2011-_____

AN ORDINANCE TO AMEND CHAPTER 16 AND SECTION 4-8 OF THE CODE OF ORDINANCES OF THE CITY OF FLORENCE, SOUTH CAROLINA AND SECTION 7.11 OF THE ZONING ORDINANCE IN ORDER TO CHANGE THE CITY OF FLORENCE DESIGN REVIEW BOARD SO THAT IT CAN SERVE AS THE BOARD OF REVIEW FOR BOTH THE OVERLAY DISTRICTS ESTABLISHED BY SECTION 2.9 OF THE ZONING ORDINANCE AND THE HISTORIC PRESERVATION ORDINANCE FOUND IN SECTION 7.11 OF THE ZONING ORDINANCE.

WHEREAS, The City of Florence has established a Historic Preservation Ordinance following the model recommended by the State Historic Preservation Office and the provisions of Section 6-29-870 of the South Carolina Code of Laws;

WHEREAS, The City of Florence wishes to make all changes necessary to the City Code to eliminate two separate Boards by consolidating the functions of the Design Review Board as established in Section 16-30, et seq. of the City Code and of the Historic Preservation Board as established in Section 7.11, et seq. of the Zoning Ordinance while complying with all requirements for both functions;

WHEREAS, a public hearing was held in Room Number 604 of the City-County Complex on January 31, 2011 before the Municipal Planning Commission and notice of said hearing was duly given;

WHEREAS, the Municipal Planning Commission and the Florence City Council concur in the amendments set out below; and

WHEREAS, it is in the best interest of the citizens of Florence, South Carolina that The Florence Design Review Board be reorganized in order to establish the body for the administration of the application of the design guidelines within the overlay districts and of the application of the Historic Preservation Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FLORENCE, SOUTH CAROLINA, IN MEETING DULY ASSEMBLED AND BY THE AUTHORITY THEREOF:

1. That the provisions of Chapter 16 and of Section 4-8 of the Code of Ordinances for the City of Florence, South Carolina and the provisions of Section 7.11 of the Zoning Ordinance be, and the same are hereby, amended to read in whole as follows:

Amendment to Sections 16-30, 16-31, 16-32, and 16-33

Article III. Florence Design Review Board

Sec. 16-30. Establish.

Pursuant to South Carolina Code of Laws Title 6, Chapter 29, there is hereby established the City of Florence Design Review Board which shall perform the functions set out with respect to the overlay districts established within the jurisdiction of the City of Florence as established by Section 2.9 of the Zoning Ordinance and the functions set out with respect to historic preservation within the jurisdiction of the City of Florence as established by Section 7.11 of the Zoning Ordinance, said Board to follow the procedures set out in the above referenced sections of the Zoning Ordinance.

Sec. 16-31. Membership.

The City of Florence Design Review Board shall consist of ten (10) members appointed by the Mayor and City Council of Florence, South Carolina. All members of the board shall have an interest in historic preservation, Membership on the board shall be composed as follows: One (1) professional architect; one (1) historian, knowledgeable in local history; one (1) person either specifically qualified by reason of education, training, or experience in the financing of commercial and residential real property or in the area of real estate; one (1) person actively engaged in business, commerce, or industry; one (1) commercial general contractor duly licensed by the State of South Carolina; one (1) professional structural engineer; one (1) person specifically qualified by reason of education, training, or experience in landscape design; and one (1) at large resident of the City of Florence; and two (2) persons actively engaged in business, commerce, or industry within the Downtown Central District as established by Section 2.9, et seq., of the zoning ordinance. At all times, at least six (6) members of the Design Review Board shall be residents of the City of Florence.

Sec. 16-32. Terms and Rules of Membership.

(a) The members of the Florence Design Review Board appointed by City Council, giving consideration to the recommendations of the Board. Upon appointment the members shall serve four-year terms, or until successors are appointed, whichever is later. Provided, however, the terms of initial appointees shall be staggered so that two (2) of the appointees shall serve initial terms of two (2) years, four (4) of the appointees shall serve initial terms of four (4) years, and four (4) of the appointees shall serve initial terms of three (3) years. After completion of the initial terms, all members of the Design Review Board appointed by City Council shall serve four (4) year terms.

(b) Members appointed by City Council may be appointed to succeed themselves up to a maximum of three (3) full terms. Thereafter, such members may be appointed only after they have been off of the Design Review Board for at least one (1) year.

(c) The Mayor and Council may remove any member appointed by City Council by majority vote of the council for cause, including repeated failure to attend meetings of the Board or for any other cause deemed sufficient by the city council. 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.

(d) 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, and all members shall serve without pay. Members may be reimbursed by the City of Florence for actual expenses incurred in the performance of their duties from available funds approved in advance.

(e) 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.

(f) 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.

Sec. 16-33. Organization.

The Florence Design Review Board shall organize and follow the Rules of Procedure as set forth in Section 2.9-7 of the Zoning Ordinance. The Design Review Board shall keep public records of their resolutions, findings, determinations, and orders.

Amendment to Section 7.11 of the Zoning Ordinance

Section 7.11 Historic Preservation Ordinance

A.. Title

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

B. 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.

C. 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.

D. Design Review Board to Serve as the Board of Historical Review

To implement the provisions of this ordinance, the Design Review Board as established by Section 16-30, et seq. of the City Code is hereby designated as the Board of Historical Review, hereinafter referred to as the Board, for the City of Florence.

E. Powers and Duties of Board

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.

F. 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.

G. Designation of Historic Properties

(1) The Board shall review the local inventory and make recommendations for historic designation(s) to City Council based on criteria listed below. Owners of properties proposed to be designated historic shall be notified in writing thirty days prior to consideration by the Board. Owners may appear before the Board to voice approval or opposition to such designation.

(2) **Criteria for Historic Designation.** A property may be designated historic if it:

- (a) has significant inherent character, interest, or value as part of the development or heritage of the community, state, or nation; or
- (b) is the site of an event significant in history; or
- (c) is associated with a person or persons who contributed significantly to the culture and development of the community, state, or nation; or
- (d) exemplifies the cultural, political, economic, social, ethnic, or historic heritage of the community, state, or nation; or
- (e) individually, or as a collection of resources, embodies distinguishing characteristics of a type, style, period, or specimen in architecture or engineering; or
- (f) is the work of a designer whose work has influenced significantly the development of the community, state or nation; or
- (g) contains elements of design, detail, materials, or craftsmanship which represent a significant innovation; or
- (h) is part of or related to a square or other distinctive element of community planning; or

- (i) represents an established and familiar visual feature of the neighborhood or community; or
- (j) has yielded, or may be likely to yield, information important in pre-history or history.

(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.

(3) **Identification on City Zoning Map.** All locally designated historic properties and historic districts shall be clearly shown on the zoning map.

(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.

H. Jurisdiction of the Board. 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.

I. 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.

J. Certificate of Historical Appropriateness.

(1) 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.

(2) 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).

(3) **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.

(4) **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.

(5) **Board Action on Application.** The Board shall review the application, using the design guidelines appearing in Section "K" 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.

(6) **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.

(7) **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.

(8) **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.

(9) **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) 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.

(11) Substantial Hardship.

(a) 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:

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.

(b) 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.

(12) 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.

K. Design Guidelines

(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.

(2) The Secretary of the Interior's Standards for Rehabilitation.

(a) 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.

(b) 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.

L. Certification of Compliance with Certificate of Historic Appropriateness

Prior to the Building Official issuing a Certificate of Occupancy for any project on a property designated as a historic property hereunder, the owner must obtain from the Downtown Planning Coordinator a Certificate of Completion Compliance which shall result and be issued upon compliance with all conditions and requirements contained in the Certificate of Historic Appropriateness. In the event a

Certificate of Compliance is denied by the Downtown Planning Coordinator the owner may appeal the decision by writing to the Design Review Board. In the event of an appeal, the Design Review Board shall consider and act on the appeal at its next regularly scheduled meeting.

M. Appeals

Any person may appeal a decision of the Board regarding the issuance of a Certificate of Historic Appropriateness or a decision of City Council regarding the designation of a historic property to the Courts of South Carolina pursuant to the South Carolina Code of Laws, Section 6-29-900 et seq.

Amendment to Section 4-8(a) of the City Code

Sec. 4-8. Demolition or removal of building – Review by the city-county historical commission required.

(a) Any person desiring to undertake the demolition or removal of any building from any lot or property within the city which has not been previously designated as an historic property pursuant to the provisions of Section 7.11G of the City Code shall make application for a demolition or moving permit to the codes enforcement division on forms provided by the division, and the request will be referred to the city-county historical commission under the provisions of this section. If the premises has been previously designated as an historic property pursuant to the provisions of Section 7.11G of the City Code, then the provisions of Section 7.11 of the City Code shall apply.

2. That this Ordinance, and the amendments contained herein, shall become effective immediately upon its approval and adoption by the City Council of the City of Florence.

ADOPTED THIS _____ DAY OF _____, 2011.

Approved as to form:

James W. Peterson, Jr.
City Attorney

Stephen J. Wukela
Mayor

Attest:

Dianne M. Rowan
Municipal Clerk