

## **Chapter 21 – HISTORIC PRESERVATION**

### **Sec. 21-1 – Findings Incorporated**

The above recitals and findings are incorporated herein by reference and made a part of this Ordinance.

### **Sec. 21-2 – Historic Preservation Commission**

#### **A. Composition, Officers, Rules, Meetings, and Minutes**

The Historic Preservation Commission shall consist of nine members appointed by the County Council, provided, however, that of the initial members of the Commission, five members shall be appointed for four year terms and four members shall be appointed for two year terms. The members shall serve until their successors are appointed and qualified. The members, both laymen and professional, shall have a demonstrated interest, competence, or knowledge in historic preservation. The members shall serve without compensation from the County. Any vacancy which may occur on the Commission shall be filled by County Council appointing a successor to serve out the unexpired term of the vacancy. No member may hold an elected public office in Charleston County.

The Commission shall elect one of its members as chair and one as vice-chair whose terms must be for one year. It shall appoint a secretary who may be an officer or an employee of the County. The Commission shall adopt rules of organizational procedure and shall keep a record of its resolutions, findings, and determinations, which record must be a public record. The Commission shall meet monthly, or as needed, and, in addition, the Commission may meet at the call of the chair or at such times as the chair or the Commission may determine.

Council hereby also establishes the position of Historic Preservation Officer. The Historic Preservation Officer shall provide administrative staff support to the Historic Preservation Commission and fulfill the duties as provided in this Ordinance. The Historic Preservation Officer shall report to the County Administrator, or his/her designee, who will, unless otherwise determined by the County Administrator, be the Charleston County Planning and Zoning Department Director.

#### **B. Review Authority**

The Historic Preservation Commission acts in a review and recommending capacity on Designations of Historic Property. The Commission may also conduct first review and evaluation of all proposed nominations for the NRHP.

#### **C. Decision-Making Authority**

The Historic Preservation Commission shall have final decision-making authority on Certificates of Historic Appropriateness.

#### **D. Responsibility**

In addition to the review and decision-making authority of the Historic Preservation Commission, the Commission shall:

1. Educate the community about the County's historic resources;
2. Maintain a system for the survey and inventory of historic properties;

3. Submit to the State Historic Preservation Office (SHPO) an annual report of Commission activities;
4. Adopt By-Laws and Rules of Procedure; and
5. Provide for adequate public participation in the local historic preservation program, including the process of recommending properties for nomination to the National Register (as applicable).

#### **E. Application Completeness and Submission Deadlines**

1. Applications for consideration by the Historic Preservation Commission (Designations of Historic Property and Certificates of Historic Appropriateness) shall be submitted no later than 12:00 p.m. on the Friday, six weeks prior to the regularly scheduled Historic Preservation Commission meeting, unless otherwise provided in this Ordinance. Application filing deadlines and Historic Preservation Commission meeting dates are available at the Zoning and Planning Department. Within 15 Charleston County Government work days of submittal of the application, staff will determine if the application is complete, and if it is complete, the Historic Preservation Officer will schedule the application for consideration at the next available Historic Preservation Commission meeting.
2. Any application that is determined to be incomplete shall, within 15 Charleston County Government work days of its submittal, be returned to the applicant along with an explanation of the application's deficiencies. Fees shall not be refunded. No further processing of the application shall occur until the deficiencies are corrected. Once the deficiencies are corrected, the application may be resubmitted without the payment of additional fees, provided that it is resubmitted within six months of the date that the application was returned to the applicant. Applications resubmitted more than six months after the date that the application was returned as incomplete shall require repayment of applicable fees.

#### **F. Requests for Postponements of Applications to the Historic Preservation Commission**

Requests for postponements of all applications from Historic Preservation Commission meetings must be made in writing to the Historic Preservation Officer and the letter must be signed by the property owner(s) and/or his/her authorized agent. Postponement requests received within 10 calendar days of the Historic Preservation Commission meeting for which the application is scheduled shall be considered withdrawn. An application that is postponed for more than one year from the date it was scheduled to be heard is deemed withdrawn. If an application is deemed withdrawn, the applicant must submit a new application in compliance with Section 21-2.E, Application Completeness and Submission Deadlines, of this Ordinance, and all applicable fees must be paid.

### **Sec. 21-3 – Designation of Historic Property**

#### **A. Purpose**

The standards of this Section are intended to safeguard the integrity of Historic Properties. The criteria and procedures in this Section are to be used by the Historic Preservation Commission to review, consider, and recommend designation of a Historic Property, and for the County Council to approve or deny the same.

#### **B. Applicability**

The Historic Preservation Commission may nominate Historic Properties and/or Historic Districts within the unincorporated area of Charleston County for designation with written consent from the

owners of such properties pursuant to this Section, provided such nominations comply with the Designation of Historic Property process and requirements contained in this Section. Additionally, applications to designate Historic Properties within the unincorporated area of Charleston County may be submitted by the property owner(s) of the subject property(ies), site(s), building(s), structure(s), object(s), or district(s) provided such applications comply with the Designation of Historic Property process and requirements contained in this Section.

### **C. Pre-Application Conference**

Before submitting an application for Designation of Historic Property, the property owner or applicant shall confer with the Historic Preservation Officer to discuss the proposal and the applicable review and approval procedures. Pre-application conferences are not required for nominations of Designation of Historic Property by the Historic Preservation Commission.

### **D. Application Filing**

1. Designation of Historic Property.
  - a. Applications for Designation of Historic Property shall be submitted to the Historic Preservation Officer on forms provided by Charleston County. Nominations for Designation of Historic Properties of Historic Properties by the Historic Preservation Commission do not require the submittal of application forms or fees.
  - b. Applications shall comply with Section 21-2.E, Application Completeness and Submission Deadlines, of this Ordinance.
2. No application for, or nomination of, a Designation of Historic Property shall be accepted as complete unless it includes the required fee and the information listed below:
  - a. A completed application signed by the current property owner(s), provided, however, that in the case of applications for designations of Historic Districts, the applicant shall submit to the Historic Preservation Officer a petition and/or written consent and other supporting documentation to show that 51% or more of the registered voters of the properties in the proposed Historic District are in favor of the designation of the Historic District. Where the proposed Historic District is less than 50 acres in size and is titled in the name of 10 or fewer Freeholders, the applicant shall canvas the proposed Historic District of the qualified electors residing in the proposed Historic District as to whether the Historic District proposed should be designated as such. The applicant shall submit to the Historic Preservation Officer a petition and/or written consent and other supporting documentation to show that 51% or more of the Freeholders of the properties in the proposed Historic District are in favor of the designation of the Historic District.
  - b. A map indicating the address(es) or location(s) of the property(ies), site(s), building(s), structure(s), or object(s), and/or the boundaries of a proposed Historic District;
  - c. A letter of intent including information or statements to demonstrate compliance with the criteria of this Section and documentation of the historical or cultural significance such as photos, primary source documents, etc.; and
  - d. Any further information or documentation as the Historic Preservation Officer may deem necessary or appropriate to conduct a full and proper consideration and disposition of the application.

### **E. Historic Preservation Officer Review and Report**

The Historic Preservation Officer shall review the application pursuant to the Approval Criteria of Section 21-3.H, Approval Criteria, of this Ordinance and refer the application to other departments

or entities as necessary. The Historic Preservation Officer shall provide a report to the Historic Preservation Commission.

#### **F. Historic Preservation Commission Review and Recommendation**

The Historic Preservation Commission shall review the Designation of Historic Property application at a meeting open to the public and adopt a resolution, by majority vote of the entire membership, recommending that the County Council approve or deny the application. The Historic Preservation Commission shall render its decision based on the Approval Criteria of Section 21-3.H, Approval Criteria, of this Ordinance. Neighbors and Parties in Interest Notice of the Historic Preservation Commission meeting shall be provided in accordance with the requirements of Section 21-6, Notices, of this Ordinance.

#### **G. County Council Hearing**

After receiving the recommendation of the Historic Preservation Commission, the County Council shall approve or deny the application for Designation of Historic Property based on the Approval Criteria of Section 21-3.H, Approval Criteria, of this Ordinance. County Council shall hold a public hearing prior to giving second reading to Designation of Historic Property applications. Neighbor and Parties in Interest Notice of the Public Hearing shall be provided in accordance with the requirements of Section 21-6, Notices, of this Ordinance. Designations of Historic Property shall not be approved "with conditions."

#### **H. Approval Criteria**

In order for an application for Designation of Historic Property to be approved, one or more of the following criteria must be met:

1. Has significant inherent character, interest, history, or value as part of the rural county or heritage of the county, state or nation;
2. Is of an event significant in history;
3. Is associated with a person or persons who contributed significantly to the culture and development of the county, state or nation;
4. Exemplifies the cultural, political, economic, social, ethnic, or historic heritage of the county, state or nation;
5. Individually or collectively embodies distinguishing characteristics of a type, style, or period in architecture or engineering;
6. Is the work of a designer whose work has significantly influenced the development of the county, state or nation;
7. Contains elements of design, detail, materials, or craftsmanship which represent a significant innovation;
8. Is part of or related to a square or other distinctive element of community planning;
9. Represents an established and familiar visual feature of the neighborhood or community;
10. Has yielded, or may be likely to yield, information important in pre-history or history (potential archaeological site); and/or
11. Is deemed eligible for or already listed on the NRHP.

#### **I. Final Action**

Designations of Historic Properties shall be adopted by ordinance of Charleston County Council.

### **J. Notice of Decision**

Following final action by the County Council, the Historic Preservation Officer shall be responsible for providing the applicant and property owner with written notice of the decision.

### **K. Removal of Designation of Historic Property**

Applications to remove a Designation of Historic Property must be submitted by the owner(s) of the Historic Property or by the Historic Preservation Commission with written consent from the property owner(s) and shall be submitted utilizing the application, fee(s), and process as described in this Article. In order for the designation to be removed, County Council must find that one or more of the following criteria has been met:

1. The Site, Building, Structure, Object or District has ceased to meet the criteria for designation as described Section 21-3.H, Approval Criteria, of this Ordinance because the qualities which caused it to be originally designated have been lost or destroyed;
2. An error occurred regarding whether the Historic Property, Site, Building, Structure, Object, or District met the criteria for designation at the time it was designated; and/or
3. There was a procedural error in the designation process.

## **Sec. 21-4 – Certificate of Historic Appropriateness**

### **A. Purpose**

In order to ensure that any alteration, modification, relocation, demolition, addition to, new construction, rehabilitation, or restoration of a Historic Property, or subdivision or development of property located within 300 feet of a Historic Property, is in keeping with the historical, cultural, and architectural character of the Historic Property, a Certificate of Historic Appropriateness must be obtained pursuant to the standards set forth in this Section.

### **B. Applicability**

1. Certificate Required. A Certificate of Historic Appropriateness is required:
  - a. Before the issuance of Zoning Permits for the demolition, alteration, modification, addition to, new construction, rehabilitation, relocation, or restoration to a Historic Property including construction of new structures in Historic Districts; and
  - b. Before Subdivision Plat and Site Plan Review approvals for properties located within 300 feet of a Historic Property.
2. These requirements shall apply to applications for the permits described herein, that are submitted after August 21, 2018.

### **C. Application Filing**

Applications for Certificates of Historic Appropriateness shall be submitted to the Historic Preservation Officer on forms provided by Charleston County. Applications shall comply with Section 21-2.E, Application Completeness and Submission Deadlines, of this Ordinance. Before submitting an application for a Certificate of Historic Appropriateness, the applicant shall confer with the Historic Preservation Officer to discuss the proposal and the applicable review and approval procedures. No application for a Certificate of Historic Appropriateness shall be accepted as complete unless it includes the required fee and the following information:

1. Completed Certificate of Historic Appropriateness application signed by the current property owner(s);
2. As applicable, a copy of a legible approved and recorded plat showing current property boundaries. Exemptions include applications for Certificates of Historic Appropriateness for

alterations, modifications, rehabilitation, demolition or restoration of Historic Properties that do not change the footprint of existing structures;

3. Restrictive covenant(s) affidavit signed by the applicant or current property owner(s) in compliance with state law;
4. A general description of the present use and proposed activity on the property and a written statement addressing the approval criteria set out in this Ordinance, stating specifically how the Certificate of Historic Appropriateness relates to and meets each criterion;
5. As applicable, a site plan drawn to an engineer's scale showing the property dimensions, dimensions and locations of existing and proposed structures and improvements, parking areas, Grand trees, wetlands (properties containing DHEC-OCRM Critical Line areas must contain an up to date DHEC-OCRM signature on the site plan or plat), and holding basins and buffers when applicable. However, if the property was developed before April 21, 1999, no site improvements have been made since April 21, 1999, and the proposed use does not require site improvements, as determined by the Zoning and Planning Department Director, the applicant may submit an aerial photograph printed to engineer's scale showing the property lines, locations of existing structures and improvements, parking areas, etc. as the site plan. One 24 x 36 copy and 20 reduced 11 x 17 copies shall be submitted.
6. As applicable, proposed Subdivision Plats.
7. Any further information or documentation as the Historic Preservation Officer may deem necessary or appropriate to conduct a full and proper consideration and disposition of the application.

#### **D. Historic Preservation Officer Review and Report**

The Historic Preservation Officer shall review each application for a Certificate of Historic Appropriateness pursuant to the Approval Criteria of Section 21-4.F, Approval Criteria, of this Ordinance. The Historic Preservation Officer shall provide a report on the application to the Historic Preservation Commission that addresses the Approval Criteria of Section 21-4.F, Approval Criteria, of this Ordinance, and includes, but is not limited to, whether or not the application complies with the requirements contained in the Charleston County Zoning and Land Development Regulations Ordinance.

#### **E. Historic Preservation Commission Public Hearing, Review and Determination**

The Historic Preservation Commission shall review the Certificate of Historic Appropriateness application at a public hearing and render a decision based on the Approval Criteria of Section 21-4.F, Approval Criteria, of this Ordinance. A majority of the Historic Preservation Commission members present and voting shall be required to approve, approve with conditions, or deny applications for Certificates of Historic Appropriateness.

Neighbor and Parties in Interest Notice of the Historic Preservation Commission meeting shall be provided in accordance with the requirements of Section 21-6, Notices, of this Ordinance. If a property is located in a NRHP listed or locally designated Historic District ("Historic District"), notifications shall also be sent to the owners of properties located within the Historic District.

#### **F. Approval Criteria**

1. In granting a Certificate of Historic Appropriateness applications, the Historic Preservation Commission shall consider:
  - a. The historic, cultural, and architectural significance of the district, site, building, structure, or object under consideration;

- b. The exterior form and appearance of any proposed additions or modifications and the effect of such additions and modifications upon other structures on the Historic Property or within the Historic District;
  - c. When considering applications for new construction, alteration, repair, rehabilitation, or restoration, the Historic Preservation Commission shall apply the Secretary of the Interior's Standards for the Treatment of Historic Properties; and
  - d. Certificate of Historic Appropriateness applications for properties located within Historic Districts, or for Subdivision Plats or Site Plan Review proposals for properties located within 300 feet of Historic Districts, must demonstrate consistency with the prevailing patterns of existing lots, densities, spacing of homes, lot sizes and shapes, and other characteristics of the Historic District that the Historic Preservation Commission deems applicable.
2. In granting a Certificate of Historic Appropriateness for Subdivision Plats and Site Plan Review proposals for properties located within 300 feet of a Historic Property, the Historic Preservation Commission shall require that potential negative impacts of the proposed development be minimized through site design techniques such as the location of vehicular access points, screening treatments, and buffering treatments.

#### **G. Notice of Decision**

Following final action by the Historic Preservation Commission, the Historic Preservation Officer shall provide the applicant and property owner with written notice of the decision.

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

If the Historic Preservation Commission denies an application for a Certificate of Historic Appropriateness, a new application affecting the same Historic Property may be submitted if the Historic Preservation Officer determines there has been some substantial change made in the plans for the proposed work or development.

#### **I. Appeals**

Any person with a substantial interest in a decision of the Historic Preservation Commission or any officer, board, or bureau of the County may appeal a final decision of the Historic Preservation Commission to the Circuit Court of Charleston County. Appellants shall file with the Court Clerk a written petition plainly and fully setting forth how such decision is contrary to law. Such appeal shall be filed within 30 calendar days after the date of the meeting at which the decision of the Historic Preservation Commission is rendered.

### **Sec. 21-5 – Nomination to The National Register Of Historic Places**

The Historic Preservation Commission may conduct first review and evaluation of all proposed nominations for the NRHP for properties that are within its jurisdiction, prior to consideration by the State Board of Review. The Commission may send their recommendations to the State Historic Preservation Office for consideration at the meeting of the State Board of Review. The Commission 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 the Federal statute.

### **Sec. 21-6 – Notices**

### **A. Neighbor Notice**

When the provisions of this Ordinance require that "Neighbor Notice" be provided, the Historic Preservation Officer shall mail notice to the applicant and all property owners within 300 feet of the subject property. Ownership information shall be obtained from the County Assessor's Office. Unless otherwise expressly provided in state statutes or this Ordinance, required Neighbor Notices shall be deposited in the U.S. mail at least 15 calendar days before the public hearing, meeting, or date of action that is the subject of the notice. Failure to provide this notice will not invalidate any action taken.

### **B. Parties in Interest Notice**

When the provisions of this Ordinance require that notice be sent, the following "Parties in Interest" shall be notified: the applicant and the owner of the property (if other than applicant). Parties in Interest shall mean any individual, associations, corporations or others who have expressed an interest in writing in an application that has been received by the Historic Preservation Officer. It is the responsibility of the Parties in Interest to provide updated contact information to the Historic Preservation Officer. The Historic Preservation Officer will keep the Parties in Interest contact information on file for one year from the initial date received. Failure to provide this notice will not invalidate any action taken.

## **Sec. 21-7 – Terms and Uses Defined**

### **A**

**Archaeological Site.** A place (or group of physical sites) in which evidence of past activity is preserved (prehistoric, historic, or contemporary), and which has been, or may be, investigated using the discipline of archaeology and represents a part of the archaeological record. A site may range from one with few or no remains visible above ground, to a building or other structure still in use.

### **C**

**Certificate of Historic Appropriateness.** The document issued by the Historic Preservation Commission (HPC) certifying that proposed actions are found to be acceptable relating to any alteration of, or change to a locally designated or National Register of Historic Places (NRHP) listed Historic Property or District, or for subdivision or site plan review applications for properties located within 300 feet of a locally designated or NRHP listed Historic Property or District.

### **F**

**Freeholder.** Any person 18 years of age, or older, and any firm or corporation, who or which owns legal title to a present possessory interest in real estate equal to a life estate or greater (expressly excluding leaseholds, easements, equitable interests, inchoate rights, dower rights, and future interests) and who owns, at the date of the application, at least an undivided one-tenth interest in a single tract and whose name appears on the county records as an owner of real estate.

### **H**

**Historic Building.** A "building", such as a house, barn, church, hotel, or similar construction, that is created principally to shelter any form of human activity. "Building" may also be used to refer to a historically and functionally related unit, such as a courthouse and jail or a house and barn. Buildings must include all of their basic structural elements; parts of buildings, such as interiors, facades, or wings, are not eligible independent of the rest of the existing building. Examples may include, but are not limited to: administration building; carriage house; church; city or town hall;



courthouse; detached kitchen, barn, and privy; dormitory; fort; garage; hotel; house; library; mill building; office building; post office; school; shed; social hall; stable; store; theater; or train station.

**Historic District.** A Historic Preservation District possesses a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development. It means a geographically definable area, urban or rural, which contains sites, buildings, structures, objects, works of art, or a combination thereof which:

- Have a special character or special historical or ethnic heritage or aesthetic interest or value;
- Represent one or more periods or styles of architecture typical of one or more eras in the history of Charleston County or the state or region; and
- Cause such area, by reason of these factors, to constitute a visibly perceptible section of Charleston County, which may either be locally-designated or NRHP-listed.

A Historic District derives its importance from being a unified entity, even though it is often composed of a wide variety of resources. The identity of a district results from the interrelationship of its resources, which can convey a visual sense of the overall historic environment or be an arrangement of historically or functionally related properties. For example, a district can reflect one principal activity, such as a mill or a ranch, or it can encompass several interrelated activities, such as an area that includes industrial, residential, or commercial buildings, sites, structures, or objects. A Historic Preservation Overlay District can also be a grouping of archeological sites related primarily by their common components; these types of districts often will not visually represent a specific historic environment.

A Historic District can comprise both features that lack individual distinction and individually distinctive features that serve as focal points. It may even be considered eligible if all of the components lack individual distinction, provided that the grouping achieves significance as a whole within its historic context. In either case, the majority of the components that add to the district's historic character, even if they are individually undistinguished, must possess integrity, as must the district as a whole.

A Historic District can contain buildings, structures, sites, objects, or open spaces that do not contribute to the significance of the Historic Preservation Overlay District. The number of noncontributing properties a Historic Preservation Overlay District can contain yet still convey its sense of time and place and historical development depends on how these properties affect the Historic Preservation Overlay District's integrity. In archeological districts, the primary factor to be considered is the effect of any disturbances on the information potential of the district as a whole.

**Historic Object.** The term "Historic Object" is used to distinguish from buildings and structures those constructions that are primarily artistic in nature or are relatively small in scale and simply constructed. Although it may be, by nature or design, movable, an object is associated with a specific setting or environment. Small objects not designed for a specific location are normally not included in this definition. Such works include a transportable sculpture, furniture, and other decorative arts that, unlike a fixed outdoor sculpture, do not possess association with a specific place. Objects should be in a setting appropriate to their significant historic use, roles, or character. Objects relocated to a museum are inappropriate for designation. Examples may include, but are not limited to: boundary marker; monument; milepost fountain; sculpture; or statuary.

**Historic Property.** A Historic Site, Historic Building, Historic Structure, or Historic Object that is fixed in location, which reflects historic, cultural or architectural significance.

**Historic Site.** The location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself possesses historic, cultural, or archeological value regardless of the value of any existing structure. A site need not be marked by physical remains if it is the location of a prehistoric or historic event or pattern of events and if no buildings, structures, or objects marked it at the time of the events. However, when the location of a prehistoric or historic event cannot be conclusively determined because no other cultural materials were present or survive, documentation must be carefully evaluated to determine whether the traditionally recognized or identified site is accurate. A site may be a natural landmark strongly associated with significant prehistoric or historic events or patterns of events, if the significance of the natural feature is well-documented through scholarly research. Generally, though, the definition of "site" excludes natural waterways or bodies of water that served as determinants in the location of communities or were significant in the locality's subsequent economic development. While they may have been "avenues of exploration," the features most appropriate to document this significance are the properties built in association with the waterways. Examples may include, but are not limited to: battlefield; campsite; cemeteries significant for information potential or historic association; ceremonial site; designed landscape; habitation site; natural feature (such as a rock formation) having cultural significance; petroglyph; rock carving; rock shelter; ruins of a building or structure; shipwreck; trail; or a village site.

**Historic Structure.** The term "Historic Structure" is used to distinguish from buildings those functional constructions made usually for purposes other than creating human shelter. Structures must include all of the extant basic structural elements; parts of structures cannot be considered eligible if the whole structure remains. For example, a truss bridge is composed of the metal or wooden truss, the abutments, and supporting piers, all of which, if extant, must be included when considering the property for eligibility. If a structure has lost its historic configuration or pattern of organization through deterioration or demolition, it is considered a "ruin" and is categorized as a site.

## R

**Rehabilitation (Historic Property or District).** The process of returning a building or buildings to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the building(s) that are significant to its historic, architectural and cultural values.

**Repair (Historic Property or District).** The mending or restoration of a building or structure to a sound or good state, at or nearest to its original designed condition, due to decay, dilapidation, damage or partial destruction. Such work shall not change the size or shape in whole or in part of a building or structure to expand a use. It shall include the terms "renovation", "rebuilding" and "reconstruction" for purposes of this Ordinance.

**Restoration (Historic Property or District).** The act or process of accurately depicting the form, features, and character of a designated property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period. The limited and sensitive upgrading of mechanical, electrical and plumbing systems and other code-required work to make properties functional is appropriate within a restoration period.