

AN ORDINANCE

AMENDING CHAPTER 21, HISTORIC PRESERVATION, OF THE CHARLESTON COUNTY CODE OF ORDINANCES, AT SECTION 21-3.D.2.B TO REMOVE THE REQUIREMENT FOR OWNERS OF PROPERTY WITHIN PROPOSED HISTORIC DISTRICTS TO SIGN RESTRICTIVE COVENANTS AFFIDAVITS AS PART OF THE APPLICATION PROCESS.

WHEREAS, pursuant to Title 4, Chapter 9, Section 4-9-10 et seq. of the Code of Laws of South Carolina, 1976 as amended, Charleston County Council established a Historic Preservation Ordinance and Historic Preservation Commission by Ordinance No. 2028 in 2018 to preserve the historic properties, districts, sites, buildings, structures, and objects in Charleston County; and

WHEREAS, the purpose of the Historic Preservation Ordinance is to set forth a process by which Charleston County Council can identify and designate properties, districts, sites, buildings, structures, and objects as historic in order to safeguard their integrity and foster preservation, restoration, and rehabilitation of the same; and

WHEREAS, since the adoption of the Historic Preservation Ordinance in 2018, a need to remove the requirement in the application process for owners of property within proposed historic districts to sign restrictive covenants affidavits has been identified, as it is not required by state law and conflicts with the Historic Preservation Ordinance requirement for the applicant to submit a petition and/or written consent 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; and

WHEREAS, the Charleston County Historic Preservation Commission and the Charleston County Planning Commission have reviewed the proposed amendment and both bodies have recommended that the Charleston County Council (County Council) adopt the proposed amendment to Chapter 21, Historic Preservation, Section 21-3.D.2.B, as set forth herein and attached as Exhibit "A"; and

WHEREAS, upon receipt of the recommendation of the Historic Preservation Commission and the Planning Commission, County Council held at least one public hearing, and after close of the public hearing, County Council approved the proposed amendment.

NOW, THEREFORE, BE IT ORDAINED, by the County Council of Charleston County, South Carolina, in meetings duly assembled as follows:

SECTION I. FINDINGS INCORPORATED

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

SECTION II. AMENDMENTS OF THE TEXT OF CHAPTER 21, HISTORIC PRESERVATION, SECTION 21-3.D.2.B, IN THE COUNTY CODE OF ORDINANCES.

The Charleston County Code of Ordinances, Chapter 21, Historic Preservation, is hereby amended to include the text amendment attached hereto as Exhibit "A" and made part of this Ordinance by reference.

SECTION III. SEVERABILITY

If, for any reason, any part of this Ordinance is invalidated by a court of competent jurisdiction, the remaining portions of this Ordinance shall remain in full force and effect.

SECTION IV. EFFECTIVE DATE

This Ordinance shall become effective immediately following third reading by County Council.

ADOPTED and APPROVED in meeting duly assembled this 13th day of April, 2021.

CHARLESTON COUNTY COUNCIL

By: _____

Teddie E. Pryor, Sr.

Chairman of Charleston County Council

ATTEST:

By: _____

Kristen L. Salisbury

Clerk to Charleston County Council

First Reading: February 16, 2021

Second Reading: March 9, 2021

Public Hearing: April 13, 2021

Third Reading: April 13, 2021

EXHIBIT “A”

Charleston County Historic Preservation Ordinance (Chapter 21 of the County’s Code of Ordinances)

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 Restrictive Covenants Affidavit(s) for each property included in the application signed by the applicant or current property owner(s) in compliance with state law;~~
- c. 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;
- d. 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
- e. 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.