

ORDINANCE NUMBER 27- 2009

AN ORDINANCE TO AMEND THE CITY OF GREER CODE OF ORDINANCE, CHAPTER 38, HISTORIC PRESERVATION, ARTICLE I. IN GENERAL BY AMENDING ARTICLE II. SECTION 38-31 CREATION, SECTION 38-32 COMPOSITION AND QUALIFICATIONS (a)(2)(3)(4) (b) AND (c), Sec. 38-33. TERMS OF OFFICE AND SECTION 38-39 FILING OF APPEALS.

WHEREAS, the City of Greer City Council at various times reviews the city ordinances to make necessary improvements and/or changes; and,

WHEREAS, operational changes necessitate the updating of the current ordinance; and,

WHEREAS, Greer City Council wishes to amend Chapter 38, Historic Preservation.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the City of Greer, that the Greer City Code of Ordinance Chapter 38 be amended as follows:

Chapter 38 HISTORIC PRESERVATION

ARTICLE I. IN GENERAL

Sec. 38-1. Title.

The title of this chapter shall be "the City of Greer Historic Preservation Ordinance."

Sec. 38-2. Purpose.

(a) The purpose of this chapter is:

- (1) To protect, preserve and enhance the distinctive architectural and cultural heritage of the city;

- (2) To promote the educational, cultural, economic and general welfare of the people of the city;
- (3) To foster civic pride;
- (4) To ensure harmonious, orderly and efficient growth and development of the city;
- (5) To strengthen the local economy; and
- (6) To improve property values.

(b) It is the hope of the city 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 and will serve as visible reminders of the significant historical and cultural heritage of the city and the state.

(c) This chapter is part of the zoning ordinance of the city and is enacted pursuant to the S.C. Code 1976, §§ 6-29-870--6-29-890 and the provisions of Act No. 487 of 1967.

Sec. 38-3. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alteration means 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.

Certificate of appropriateness means a document issued by the board of architectural review, following a prescribed review procedure, certifying that the proposed actions by an applicant are found to be acceptable in terms of design criteria relating to the individual property or the historic district.

Historic district means an area, designated by the city council, upon the recommendation of the planning commission and pursuant to the provisions of this chapter.

Historic property means any place, 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 means spaces designed for use by the public, such as auditoriums, courtrooms, lobbies, entrance halls, etc. These spaces are usually gathering places as opposed to corridors for public use.

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

- (1) The property cannot reasonably be maintained in the manner dictated by this chapter;
- (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.

Secs. 38-4--38-30. Reserved.

ARTICLE II. BOARD OF ARCHITECTURAL REVIEW

Sec. 38-31. Creation.

To implement the provisions of this chapter, there is hereby established a board of architectural review for the city consisting of five members. Members of the board of architectural review shall be appointed by the city council in accordance with chapter 2, article VI.

Sec. 38-32. Composition and qualifications.

(a) All members of the board of architectural review shall have a demonstrated interest, competence or knowledge of historic preservation. The board shall be made up of the following:

- (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.
- (3) A business owner, property owner or a representative of those interests within the Historic District.
- (4) Two at large members.

(b) Other designated members can be listed, Designated members may be selected from other relevant backgrounds and disciplines such as a lawyer, a real estate agent, an

engineer, an urban planner and designer, and representative of the historical society. No members shall hold any other municipal office.

(c) Members of the board of architectural review shall assume their duties at the first regular meeting after their appointment. Members of the board of architectural review shall serve without compensation except for reimbursement for authorized expenses attendant to the performance of their duties.

Sec. 38-33. Terms of office.

The members of the board of architectural review shall serve three-year terms, except that the initial five members shall be appointed to serve terms as follows: one member for three years; two members for two years; and two members for a one-year term.

Sec. 38-34. Officers.

The board of architectural review shall elect from its membership a chair and a vice-chair who shall serve for one year or until their successors are elected. No member of the board of architectural review shall be elected chair or vice-chair for more than three consecutive years. The board of architectural review shall appoint a secretary. The secretary of the board of architectural review shall have the following duties:

- (1) Take minutes at each board meeting;
- (2) Be responsible for publication and distribution of copies of the minutes, reports and decisions of the board of architectural review to its members and filing the minutes, reports and decisions with city council;
- (3) Notify the city clerk of vacancies on the board, including the expiring term of members.

Sec. 38-35. Regular meetings.

Regular meetings for transaction of business of the board of architectural review may be held with such frequency as the board may determine, but not less than four times a year.

Sec. 38-36. Annual organizational meeting.

The first regular meeting of the board of architectural review following the beginning of the city's fiscal year shall be designated the annual organizational meeting for the election of officers and organization of the board.

Sec. 38-37. Special meetings.

Special meetings of the board of architectural review may be held at any time upon call by the chair.

Sec. 38-38. Appeals and hearings.

Appeals to the board of architectural review concerning interpretation or administration of this chapter may be taken by any person aggrieved or by any officer, department, board, or bureau of the city. Such appeal shall be taken within such time as shall be prescribed by the board of architectural review by general rule, by filing with the officer from whom the appeal is taken and with the board a notice of appeal, specifying the grounds. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of architectural review, after notice of appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In which case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of architectural review or by a court of record on application on notice to the officer from whom the appeal is taken and on due cause shown. The board of architectural review shall fix a reasonable time for hearing the appeal, give due notice of hearing to the parties concerned, and decide the appeal within a reasonable time. At the hearing, any party may appear in person, by agent, or by attorney. The board of architectural review may reverse or affirm, wholly or partly or may modify the order, requirement, decision, or determination appealed from; and shall make such order, requirement, decision, or determination as in its opinion ought to be made on the premises, and to that end shall have all the powers of the officer from whom the appeal is taken.

Sec. 38-39. Filing of appeals.

Any person aggrieved by a decision of the architectural review board rendered after a hearing may, within 30 days after notice thereof, file an appeal in circuit court for a review of the decision of the board pursuant to S.C. Code 1976, § 6-29-900, the South Carolina Local Government Comprehensive Planning Enabling Act of 1994.

Sec. 38-40. Public notice.

All meetings of the board of architectural review shall be open to the public and reasonable notice of the time and place shall be given to the public. Notices of the meeting of the board of architectural review shall be posted at city hall and sent to the news media as required by the Freedom of Information Act.

Sec. 38-41. Rules and records.

The board of architectural review shall adopt rules of procedure and shall keep records or minutes of its recommendations, findings and approvals and denials. These rules will govern the application process for a certificate of appropriateness and will be in compliance with state law and due process requirements of the United States Constitution. Such rules and all records will be made public record. A quorum, consisting of a majority of the total membership of the board of architectural review, shall be required to conduct business.

Sec. 38-42. Board action.

Decisions or actions by the board of architectural review shall be by a majority vote of qualified members present and voting. Proxy votes shall not be permitted.

Sec. 38-43. Annual report.

The board of architectural review shall make an annual report to the city council at the end of the city's fiscal year citing applications brought before the board and the approvals, denials or other resolutions issued by the board. This report will be a public record and will be kept along with minutes of the meetings at city hall.

Sec. 38-44. Conflicts of interest.

Any member of the board of architectural review 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 of architectural review concerning the property.

Sec. 38-45. Liability of members.

Any member of the board of architectural review acting within powers granted by this chapter shall be relieved from personal liability for any damage and held harmless by the city. Any suit brought against any member of the board of architectural review shall be defended by a legal representative furnished by the city until the termination of the proceedings.

Sec. 38-46. Powers and duties.

The responsibility of the board of architectural review is to promote the purposes and objectives of this chapter, to review and recommend to the planning commission the designation of individual historic properties and historic districts, and to review plans and applications, as provided in this

chapter, for all construction within historic districts and uniform design standards for nonresidential buildings and any zoning overlay districts and construction or demolition pertaining to duly designated historic properties. The board of architectural review shall have the power to approve, approve with modifications or deny approval for such applications in accordance with the prescribed procedures and guidelines.

Sec. 38-47. Historic property inventory.

The board of architectural review shall maintain a local inventory of buildings, structures, objects, and sites more than 50 years old. These records shall be available to the public.

Secs. 38-48--38-80. Reserved.

ARTICLE III. DESIGNATION OF HISTORIC PROPERTIES

Sec. 38-81. Criteria for historic designation.

The board of architectural review shall review the local inventory and make recommendations for historic designation to the planning commission 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;
- (2) Is the site of an event significant in history;
- (3) Is associated with a person or persons who contributed significantly to the culture and development of the community, state, or nation;
- (4) Exemplifies the cultural, political, economic, social, ethnic, or historic heritage of the community, state, or nation;
- (5) Individually, or as a collection of resources, embodies distinguishing characteristics of a type, style, period, or specimen in architectural or engineering;
- (6) Is the work of a designer whose work has influenced significantly the development of the community, 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; or

(10) Has yielded, or may be likely to yield, information important in pre-history or history.

Sec. 38-82. Owner notification.

Owners of properties proposed to be designated historic shall be notified in writing by the board of architectural review 30 days prior to consideration by the planning commission. Owners may appear before the planning commission to voice approval or opposition to such designation.

Sec. 38-83. Identification on town zoning map.

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

Sec. 38-84. HD, historic overlay district established.

The historic district (HD) is hereby established as an overlay district with the same privileges and restrictions as the underlying zoning classification together with the requirements and ordinances relating to historic properties in this chapter.

Sec. 38-85. HD zoning procedure.

The procedure for designating any property as being in the historic district shall be the same as is required for a zoning map amendment, except that the board of architectural review will be the applicant in all cases and the board of architectural review will not be required to pay an application fee. The public hearing and notice requirements of the zoning ordinance applies. The planning commission will make their recommendations to city council where final action will be taken as in other zoning map amendment procedures.

Sec. 38-86. Jurisdiction of the board of architectural review.

The jurisdiction of the board of architectural review, in general, is the city limits. The jurisdiction of the board of architectural review for the recommendation of properties to be designated historic is the city limits. The jurisdiction of the board of architectural review 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 being in the historic district.

Sec. 38-87. Nominations to the National Register of Historic Places.

The board of architectural review shall 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 of architectural review may send its recommendations to the state historic preservation office for consideration at the meeting of the state board of review. The board of architectural review shall not nominate properties directly to the national register; only the state board of review shall have this final review authority.

Secs. 38-88--38-120. Reserved.

ARTICLE IV. CERTIFICATE OF APPROPRIATENESS

Sec. 38-121. General regulation.

Restrictions on certain actions within the historic district. No building or structure within the historic district may be erected, demolished or removed in whole or in part, nor may the exterior appearance or architectural character of such a structure be altered until a certificate of appropriateness has been issued by the board of architectural review. The term "structure" shall include walls, fences, signs, light fixtures, steps, pavement or other appurtenant features, excluding traffic control devices. No certificate of appropriateness shall be necessary to perform ordinary maintenance or repairs to correct an unsafe or dangerous condition, or to correct deterioration of or damage to the original structure pursuant to section 38-129.

Sec. 38-122. Certificate required.

(a) A certificate of appropriateness is required before a building permit can be issued for the demolition, new constructions, exterior alteration, modification or addition to a designated historic property. Any building permit not issued in conformity with this chapter shall be considered void.

(b) Application for a certificate of appropriateness must be signed by the owner or his authorized representative and the form must be signed by the chair or vice-chair of the board of architectural review stating its approval, denial, or approval with conditions and the reasons for the decision.

Sec. 38-123. Required procedures.

An application for a certificate of appropriateness shall be obtained from and, when completed, filed with the city zoning administrator or other appropriate administrative official designated by the board of architectural review.

Sec. 38-124. Time limits.

Applications for a certificate of appropriateness shall be considered by the board of architectural review at its next regular meeting, provided they have been filed at least seven calendar days before the regularly scheduled meeting of the board. If the board of architectural review 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 of this chapter.

Sec. 38-125. Board of architectural review action on application.

The board of architectural review shall review the application, using the design guidelines given in article V of this chapter to make findings of fact to decide whether or not the applicant's plans are appropriate. The decision of the board of architectural review with the reasons for each decision will be recorded in the minutes that will be available as a public reference for preservation procedures.

Sec. 38-126. Contents of application.

The board of architectural review shall, in its rules of procedure, require data as are reasonably necessary to determine the nature of the application. An application shall not be considered complete until all the required data have been submitted.

Sec. 38-127. Notification of affected property owners.

Prior to the issuance of an approval or denial of a certificate of appropriateness, the board of architectural review 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.

Sec. 38-128. Submission of a new application.

If the board of architectural review determines that a certificate of appropriateness should be denied, a new application affecting the same property may be submitted only if substantial change is made in the plans for the proposed construction, alteration or restoration.

Sec. 38-129. 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 of architectural

review 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 of architectural review may authorize a staff member to approve minor projects involving repairs and ordinary maintenance that do not alter design, materialize, color or the outer appearance of a structure or interior projects not subject to design review.

Sec. 38-130. Fines, penalties and fees.

The system of fines applied by the city for violation of the building code will apply to violations of this chapter. The city shall establish appropriate fees for the administration of this chapter.

Sec. 38-131. Substantial hardship.

(a) If a certificate of appropriateness is denied, the property owner may apply for an exemption based on the substantial hardship of maintaining the property according to the design guidelines for historic properties. Substantial hardship is to be considered by the board where there is one or more of the following unusual and compelling circumstances:

- (1) The property cannot reasonably be maintained in the manner dictated by this chapter;
- (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 of architectural review;
- (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 of architectural review to determine whether or not the property may yield a reasonable return.

Sec. 38-132. Demolition of building or structure.

(a) No building or structure designated as historic shall be demolished or otherwise removed until the owner thereof has received a certificate of appropriateness from the board of architectural review. The board of architectural review may delay the granting of the certificate of appropriateness for a period of up to 90 days from the time of the filing of the application with the designated city official. The board of architectural review may extend this postponement for certificate of appropriateness with regards to a request to demolish a structure for another 90 days after a finding by the board that the structure is of extreme historical importance to the people of the city.

(b) Within the period of postponement of such demolition of any building, the board of architectural review shall take steps to ascertain what can be done to preserve such building. Such steps shall include, but will not be limited to, consultation with civic groups, interested citizens and public boards and agencies.

(c) After the postponement period has elapsed and the board of architectural review has been unable to determine an adequate alternative to demolition, a certificate of appropriateness shall be granted.

(d) If the board of architectural review finds that a building proposed for demolition is of no particular historical significance or value toward maintaining the historical character of the city, it may issue the certificate of appropriateness in the normal manner.

Secs. 38-133--38-160. Reserved.

ARTICLE V. DESIGN GUIDELINES

Sec. 38-161. Intent.

It is the intent of this chapter to ensure, insofar as possible, that buildings or structures designated as historic shall be in harmony with the architectural and historical character of the city. 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.

Sec. 38-162. The Secretary of the Interior's Standards for Rehabilitation.

When considering an application for a certificate of appropriateness for new construction, alteration, repair, or restoration, the board shall use the Secretary of 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 shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
- (2) The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
- (3) Each property shall 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 architectural elements from other buildings, shall not be undertaken.
- (4) Most properties change overtime; those changes that have acquired historic significance in their own right shall be retained and preserved.
- (5) Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize property shall be preserved.
- (6) Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical or pictorial evidence.
- (7) Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

(8) Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

(9) New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

(10) New additions and adjacent or related new construction shall 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.

This ordinance shall be effective immediately upon second reading approval hereof.

CITY OF GREER, SOUTH CAROLINA

Richard W. Danner, Mayor

ATTEST:

Tammela Duncan, Municipal Clerk

Introduced by: Councilwoman Belle Coxe Mercado

First Reading: December 8, 2009

Second and
Final Reading: January 12, 2010

Approved as to Form:

John B. Duggan, City Attorney