

Ordinance 2017-084

Ratified August 15, 2017

AN ORDINANCE TO AMEND PART 6 – OLD AND HISTORIC DISTRICT AND OLD CITY DISTRICT REGULATIONS OF CHAPTER 54 OF THE CODE OF THE CITY OF CHARLESTON (ZONING ORDINANCE) TO, AMONG OTHER MATTERS, ADD THE HISTORIC CORRIDOR DISTRICT, ADD OR MODIFY DEFINITIONS, ADOPT PRINCIPLES TO GOVERN NEW CONSTRUCTION AND RENOVATION, ESTABLISH AND APPLICATION PROCEDURE AND ADDRESSING THE POWERS AND DUTIES OF THE BOARDS OF ARCHITECTURAL REVIEW. (AS AMENDED)

BE IT ORDAINED BY THE MAYOR AND COUNCILMEMBERS OF CHARLESTON, IN CITY COUNCIL ASSEMBLED:

Section 1. Part 6 – Old and Historic District and Old City District Regulations of Chapter 54 of the Code of the City of Charleston is hereby amended to read as follows (amendatory language in **bold**):

PART 6 - OLD AND HISTORIC DISTRICT, OLD CITY DISTRICT AND HISTORIC CORRIDOR DISTRICT REGULATIONS

Sec. 54-230. - Purpose of creating districts.

In order to promote the economic and general welfare of the city and of the public generally, and to insure the harmonious, orderly and efficient growth and development of the city, it is deemed essential by the city council of the city that the qualities relating to the history of the city and a harmonious outward appearance of structures which preserve property values and attract tourist and residents alike be preserved; some of these qualities being the continued existence and preservation of historic areas and structures; continued construction of structures in the historic styles and a general harmony as to style, form, color, proportion, texture and material between structures of historic design and those of more modern design. These purposes are advanced through the

preservation and protection of old historic or architecturally worthy structures and quaint neighborhoods which impart a distinct aspect to the city and which serve as visible reminders of the historical and cultural heritage of the city, the state, and the nation.

Sec. 54-231. - Designation of Old City District and Old and Historic Districts; definitions.

a. For the purpose of this article, three types of special districts are established, as follows:

1. Old and Historic District and Old City District. The boundaries of the Old and Historic District and Old City District are as delineated upon the zone map, a part of the zoning ordinance of the city.

2. Historic Corridor District. The boundaries of the Historic Corridor District are as delineated upon the zone map, a part of the city zoning ordinance.

b. For the purposes of this article, "exterior architectural appearance" shall include architectural character, general composition and general arrangement of the exterior of a structure, its height, scale and mass in relation to its immediate surroundings, the kind, color and texture of the building material and type and character of all windows, doors, light fixtures, signs and appurtenant elements that are visible from a street or public ~~oroughfare~~ **right-of-way**.

c. For the purposes of this article, "structure" shall include, in addition to buildings, walls, fences, signs, light fixtures, steps or appurtenant elements thereof.

d. For purposes of this article, "demolition" means the removal of an entire structure or a substantial portion of a structure visible from the public right-of-way or a substantial portion of features of a structure that are visible from the public rights-of-way that define its historic architectural character, such as roofs, columns, balustrades, chimneys, siding, windows, doors, shutters, site walls, fences and other unique architectural features, which if lost, would compromise the historic architectural character of the structure.

e. For purposes of this article, "height" means the vertical extent of a structure as described in Sec. 54-306 of this Chapter.

f. For purposes of this article, "scale" means building elements and details and the relationship of a building to itself, to humans, and to structures in its immediate surroundings in terms of its visual unity, continuity and proportions.

g. For purposes of this article, "mass" means the volume or bulk of a building expressed in its three-dimensional form, to include variations in the shape and form of the building and its relationship to the size of structures in its immediate surroundings.

h. For purposes of this article, "immediate surroundings" means abutting properties and those on both sides of the street of the block in which the building is located.

i. For purposes of this article, "block" means the aggregate (or sum) of privately owned lots passages, rear lanes and alleys lying between one public street and, as to that street, the next public street.

j. For purposes of this article, "visible from the public right-of-way" means only such

portion of a structure that can be viewed by the naked eye from street level. In determining visibility, presence of vegetation shall be ignored.

k. For purposes of this article, "Certificate of Appropriateness" means the approval of a project by the Board that entitles the applicant to apply for a building permit.

Sec. 54-232. - Construction or demolition of structures in districts; permit required; certificate of approval.

a. No structure which is within the Old and Historic District shall be erected, demolished or removed in whole or in part, nor shall the exterior architectural appearance of any structure which is visible from a public right-of-way be altered until after an application for a permit has been submitted to and approved by the Board of Architectural Review.

b. No structure in the Old City District or the Historic Corridor District that is either more than 50 years old or listed in Categories 1, 2, 3 or 4 on the Inventory Map as adopted by Sec. 54-235 shall be demolished, removed in whole or part, or relocated until after an application for a permit has been submitted to the Board of Architectural Review and either has been approved by it or the period of postponement in the case of application for partial or total demolition hereafter provided for in Sec. 54-240, d., has expired.

c. The exterior architectural appearance of any structure, either more than one hundred years old or listed in Categories 1, 2, 3 and 4 on the Inventory Map adopted by Sec. 54-235 which is within the Old City District and which is visible from a public right-of-way, shall not be changed until after an application for a permit has been submitted to and approved by the Board of Architectural Review. In the Historic Corridor District, the exterior architectural appearance of structures visible from a public right-of-way, except for residential structures with fewer than eight units, shall not be changed until an application has been submitted to and approved by the Board of Architectural Review.

d. Within the Old City District and Historic Corridor District, no new structure which will be visible from a public right-of-way upon its completion shall be erected until after an application for a permit has been submitted to and approved by the Board of Architectural Review.

e. Evidence of the approval required above shall be a Certificate of Appropriateness issued by the Board of Architectural Review as created herein. Such certificate shall be a statement signed by the chairman of the Board of Architectural Review or administrative officer, as applicable, stating that the new construction, demolition, relocation or the changes in the exterior architectural appearance for which application has been made are approved by the Board of Architectural Review; provided, however, that repairs and renovations to existing structures which do not alter the exterior appearance and are so exempted by the administrative officer as herein provided need not be approved by the Board of Architectural Review.

f. Any person requesting a permit under this section and article shall be entitled to a hearing on such request before the Board of Architectural Review.

(Ord. No. 2003-93, §§ 1, 2, 9-23-03)

Sec. 54-233. - Board of Architectural Review created; composition; appointment and terms of office.

a. Two Boards of Architectural Review are hereby established, to be known as the Board of Architectural Review – Small (the "BAR-S") and the Board of Architectural

Review – Large (the “BAR-L”). The BAR-S shall hear and decide applications for projects that are 10,000 square feet or less in size and minor modifications to projects over 10,000 square feet. The BAR-L shall hear and decide applications for projects that exceed 10,000 square feet. Demolition applications shall be assigned to either the BAR-S or BAR-L, as determined by staff.

b. Each Board of Architectural Review shall consist of five (5) members and two (2) alternates who do not hold any other public office or position in the City of Charleston and are appointed by City Council. Board members shall be citizens of the City of Charleston, or non-citizen owners or principals of businesses located in the City. Each Board shall include two (2) registered architects, an attorney, a licensed professional involved in construction or engineering and a lay person. The members and alternates shall have demonstrated experience in historic design or preservation and at least one of the following fields: fine arts, architecture, structural engineering, landscape architecture, civil engineering, urban design, city planning, preservation, construction, real estate, law or associated disciplines. Each board shall elect one of its members chairman, who shall serve for a term of one year or until reelected or a successor is elected and qualified. Each board shall appoint a secretary who may be an officer of the governing authority. Each board shall adopt rules of procedure.”

c. The initial term of three (3) of the five (5) members and one (1) alternate first appointed to the BAR-S and BAR-L shall expire on the date of the first regular City Council meeting in January following their appointment, and the initial term of the other two (2) of the five (5) members and the other alternate first appointed to the BAR-S and BAR-L shall expire on the date of the first regular City Council meeting in January two years thereafter. Following the initial term, the terms of all members and alternates shall be three (3) years. No member shall serve more than two successive three-year terms. A member who has served two successive three-year terms on the BAR-S is not disqualified from serving two successive three-year terms on the BAR-L, and *vice versa*. An appointment to fill a vacancy shall be only for the expired portion of the term.

d. Meetings of the board may be held at the call of the chairman and at such other times as the board may determine. The chairman or, in his or her absence, the acting chairman, may administer oaths and compel the attendance of witnesses by subpoena. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating the fact, and shall keep records of its examinations and other official actions, all of which immediately must be filed in the office of the board and must be a public record.

e. Alternate members, when seated, have all the powers and duties of regular members. Alternate members may always attend meetings but shall only participate in board deliberations and debate, make motions and vote in the absence or voting disqualification of a regular member or the vacancy of a regular member's seat. When necessary to achieve a quorum, an alternate of one Board may serve on the other Board.

(Ord. No. 1999-54, § 2A, 4-27-99; Ord. No. 2000-35, § 1, 3-14-00; Ord. No. 2007-60, § 1, 3-6-07)

Sec. 54-234. - Meeting of board.

a. The Board of Architectural Review may meet at any time upon call of the chairman and, in addition, shall within fifteen (15) days after notification by the administrative officer of the filing of an application for a permit to demolish any structure in whole or in part, hold a public hearing upon each application. At least five (5) days' notice of the time and place of each such hearing shall be given by the administrative officer as follows:

1. In writing to the applicant.

In writing to all persons or organizations that have filed an annual written request for such notices and have paid an annual fee, not to exceed twenty-five dollars (\$25.00), to cover the costs involved.

3. By publication in the form of an advertisement in a newspaper of general circulation within the city.

Sec. 54-235. - Adoption of inventory map; procedure for revision.

In order to identify structures within peninsula Charleston which should be preserved, maintained and protected in the public interest and to provide guidance for the Board of Architectural Review there hereby is adopted as an official public document the inventory map entitled "Historic Architecture Inventory, 1972-73, Peninsula City, Charleston, S.C.," prepared for the city by Carl Feiss, FAIA, AIP, City Planning and Architectural Associates, and Russell Wright, AIP, consisting of peninsula Charleston south of Highway 17, and additional sheets being dated September 4, 1973, with revisions September 11, 1973, October 16, 1973, November 14, 1973, February 20, 1974 and March 27, 1974, as amended by the inventory map entitled "South Carolina Inventory of Historic Places Survey Report, City of Charleston, S.C." prepared for the city by Geier Brown Renfrow Architects and dated August 1985, and as amended by the inventory entitled "A Historic Architectural Resources Survey of the Upper Peninsula, Charleston, South Carolina" prepared by Brockington and Associates, dated 2004 consisting of the peninsula Charleston north of Line Street and south of Mount Pleasant Street (collectively "Inventory Map"). The original of the said Inventory Map shall be filed in the Department of Planning, Preservation and Sustainability as a public record and shall be available for public inspection during normal business hours. Based on changed conditions, the Board of Architectural Review from time to time may recommend to the City Council additional revisions of said Inventory Map, but none shall become effective until the Zoning Ordinance has been appropriately amended.

Sec. 54-236. - Guidance standards; maintenance of consistent policy.

In order to provide guidance and insight into desirable goals and objectives for the Old City District, the Old and Historic District and Historic Corridor District for desirable types of development, and for the maintenance of consistent policies in guiding the building public toward better standards of design, the Board of Architectural Review shall be guided by the Secretary of the Interior's Standards for Historic Preservation and the 2017 BAR PRINCIPLES FOR NEW CONSTRUCTION AND RENOVATION AND REPAIRS, said Standards and PRINCIPLES being incorporated herein by reference, and permanent copies of which shall be maintained by the Department of Planning, Preservation and Sustainability, or its successor department, and copies of which shall be made available to interested persons on request

Sec. 54-237. – Application and Review Procedure

Pre-Application Conference: Applicants are required to meet with staff prior to applying for Conceptual Approval for projects exceeding 10,000 square feet to assure the applicant is acquainted with and has an understanding of the Board's Guidelines. Applicants for projects of 10,000 square feet or less are encouraged, but not required, to likewise meet with staff prior to applying for Conceptual Approval.

Conceptual: Review of the general height, scale, mass and three dimensional form of a building, or an addition to an existing building, and the general architectural direction and quality of the project as it relates to its site, its neighborhood, its immediate surroundings and the City of Charleston. This phase defines the overall quality and architectural character of the project.

Preliminary: Review of the development of the conceptual design and its relationship to its context in terms of the project's details, finishes and materials. This phase defines the level of quality of construction, and the relationship of the building's components to surrounding buildings and to one another.

Final: Review of the completion of the preliminary design based on completed construction documents and material specifications for consistency with the level of quality of the previous phases. Final Review of BAR-L projects shall be by the Board, unless the Board delegates the review to staff. Final Review of BAR-S projects shall be by staff; provided however, at its discretion, staff may require Final Review to be undertaken by the Board; and provided further that the BAR-S, in its discretion, may request to undertake Final Review. Any final review that is delegated to staff is for the purpose of assuring that for-permit construction drawings comply with the approved design.

Comparative Reviews: For each review after Conceptual approval, or if the applicant is required to submit more than one conceptual submittal, the applicant shall show on the same sheet the previous proposal for comparison to the current proposal

Courtesy Review: At the discretion of staff, an applicant may be requested to submit to a courtesy review of a project by the Board to receive informal initial feedback as to the direction of the project.

Affordable/Workforce Housing Projects; Projects which include affordable or workforce housing units that are submitted by the application deadline and which comply with all submittal requirements shall be placed on the agenda of the next regularly scheduled meeting of the Board, subject to Rules of the Board if any, that limit the number of items on agenda.

In the case of very minor projects involving repair or alterations to existing structures, the Board of Architectural Review, if the preliminary drawings and other data are sufficiently clear and explicit, may grant preliminary and final approval at one review session. Should said data indicate alterations, remodeling, or repairs not changing the exterior appearance, the administrative officer may exempt the application from provisions of this section and approve a Certificate of Appropriateness.

Sec. 54-238. - Contents of application.

Applications for demolition, relocation, new construction, or alterations and/or additions or renovations to existing structures shall include such drawings, photographs or other

information as may from time to time be adopted by the Board of Architectural Review, copies of which shall be maintained in the Office of Planning, Preservation and Sustainability or such successor office thereto.

Sec. 54-239. - Public notice requirements.

Upon the filing of an application with the Board of Architectural Review, the property to which such application applies shall be posted with a sign at least five (5) days prior to any public hearing when the application will be considered and said sign shall specify the appropriate city department to contact concerning information regarding the application. The Board of Architectural Review shall adopt and implement rules of procedure by which the posting of signing shall be conducted, and may make recommendations to City Council of fees to be charged therefore. Any fee schedule established hereunder shall be approved by City Council.

Sec. 54-240. - Board of Architectural Review; powers and duties.

a. In reviewing any application before it, the Board of Architectural Review may approve, deny or conditionally approve an application. If in the opinion of the Board, an application requires further study, action on an application may be deferred. In passing on an administrative appeal, the Board may affirm, modify or reverse the decision.

b. In reviewing an application to demolish, or demolish in part, or remove, or alter the exterior architectural appearance of any existing structure, the Board of Architectural Review shall consider, among other things, the historic, architectural and aesthetic features of such structure, the nature and character of the surrounding area, the historic or culturally important use of such structure and the importance to the city.

c. In reviewing an application for new construction in the Old and Historic District, Old City District or Historic Corridor District, the Board of Architectural Review shall consider, among other things, the general design, the character and appropriateness of design, the height, scale and mass of the structure, the arrangement, texture, materials and color of the structure in question, and the relation of such aspects, features and elements to similar aspects, features and elements of structures in the immediate surroundings. Notwithstanding anything in this Chapter to the contrary, in passing upon an application, the Board of Architectural Review is empowered to require the use of architectural techniques such as building façade and mass modulations or adjustments to the footprint of a structure on a site to achieve appropriate form and proportion of a structure in relation to its immediate surroundings, so long as such techniques do not unreasonably restrict the use of a site in light of its underlying zoning. The Board of Architectural Review shall not consider interior arrangement or interior design; nor shall it make requirements except for the purpose of preventing designs of developments which are not in harmony with the prevailing character of Charleston, or which are obviously incongruous with this character.

d. Among other grounds for considering a design inappropriate and requiring denial or deferral and resubmission are the following effects: Arresting and spectacular effects, violent contrasts of materials or colors and intense or lurid colors, a multiplicity or incongruity of details resulting in a restless and disturbing appearance, the absence of unity, visual compatibility and coherence in composition, form and proportion not in consonance with the dignity and character of the present structure (in the case of repair, remodeling or enlargement of an existing structure) or with the prevailing character of the immediate surroundings (in the case of a new structure).

e. In case of denial of an application, the Board of Architectural Review shall state the reasons therefore in a written statement to the applicant and make recommendations in regard to appropriateness of design.

f. The Board of Architectural Review may refuse a permit or Certificate of Appropriateness for the erection, reconstruction, alteration, demolition, partial demolition, or removal of any structure within the Old and Historic District, which in the opinion of the Board of Architectural Review, would be detrimental to the interests of the Old and Historic District and against the historic character and public interest of the city.

g. Upon receiving an application for the demolition or removal of a structure over fifty (50) years old and within the limits of the Old City District, the Board of Architectural Review, within forty-five (45) days after receipt of the application, shall either approve or deny such application, or find that the preservation and protection of historic places and the public interest will best be served by postponing the application for a designated period, which shall not exceed one hundred eighty (180) days from the receipt of the application, and notify the applicant of such postponement.

h. In any case involving the demolition or partial demolition or removal of a structure, before granting approval or requiring a postponement, the Board of Architectural Review may call on the chief building official to provide it with a report on the state of repair and structural stability of the structure under consideration.

i. In all applications involving the demolition or partial demolition or removal of a structure, provision shall be made for a public hearing as set forth in this article.

j. Within the period of postponement of such demolition, partial demolition or removal of any structure, the Board of Architectural Review shall take steps to ascertain what the City Council can or may do to preserve such structure, including consultation with private civic groups, interested private citizens and other public boards or agencies and including investigation of the potential use of the power of eminent domain when the preservation of a given structure is clearly in the interest of the general welfare of the community and of certain historic and architectural significance. The Board of Architectural Review shall then make such recommendations thereabout to the City Council as the board may determine to submit.

k. The Board of Architectural Review shall have the power to delay for a period of 180 days or deny outright the demolition, partial demolition or removal of a structure over 50 years old in the area bounded to the north by Mount Pleasant Street or the extensions thereof into the waters of the Ashley and Cooper Rivers, to the east by the waters of the Cooper River to the south by the Old City District and to the west by the waters of the Ashley River.

l. The approval of an application by the Board of Zoning Appeals—Zoning or the Board of Zoning Appeals—Site Design pertaining to dimensional requirements of a proposed project shall not be binding on the Board of Architectural Review in its review, or of any power granted to it in this ordinance..

(Ord. No. 1998-148, § 1, 8-18-98; Ord. No. 1999-54, § 4, 4-27-99)

Sec. 54-241. - Powers of board to require repair of structures.

The Board of Architectural Review, on its own initiative, may file a petition with the chief building official requesting that said officer proceed under the public safety and housing ordinance to require correction of defects or repairs to any structure covered by this article

so that such structure shall not experience demolition by neglect and be preserved and protected in consonance with the purpose of this article and the public safety and housing ordinance.

Sec. 54-242. - Exemptions from article.

Nothing in this article shall be construed to prevent the ordinary maintenance or repair of any exterior elements of any structure described in section 54-232; nor shall anything in this article be construed to prevent the construction, reconstruction, alteration or demolition of any such elements which the chief building official shall certify as required by public safety.

Sec. 54-243. - Report to administrative officer; issuance of certificate of appropriateness.

Upon approval of the plans, the Board of Architectural Review shall forthwith transmit a report to the administrative officer stating the basis upon which such approval was made, and if no further action is required of the Board or staff, cause a Certificate of Appropriateness to be issued to the applicant. If the Board of Architectural Review shall fail to take final action upon any case within forty-five (45) days after the receipt of application for permit, the application shall be deemed to be disapproved, except where mutual agreement has been made for an extension of time limit.

When a Certificate of Appropriateness has been issued, a copy thereof shall be transmitted to the city building inspector, who shall from time to time inspect the alteration or construction approved by such certificate and shall make a report of such inspection to the Board of Architectural Review of any work not in accordance with such certificate or violating any ordinances of the city.

Sec. 54-244. - Time limitations on certificates of appropriateness.

Conceptual and Preliminary approvals and Certificates of Appropriateness shall remain valid for two (2) years from the date of approval, unless extended in accordance with Section 54-962 hereof.

(Ord. No. 1999-24, § 1, 3-10-99; Ord. No. 2005-99, § 2, 6-21-05)

Sec. 54-245. - Appeals to Board of Architectural Review.

Appeals to the Board of Architectural Review may be taken by any person aggrieved or by any officer, department, Board or bureau of the city. Such appeal shall be taken within a reasonable time as provided by the rules of the Board by filing with the officer from whom the appeal is taken and with the Board of Architectural Review a notice of appeal specifying the grounds thereof. 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.

(Ord. No. 1999-54, § 2B, 4-27-99)

Sec. 54-246. - Effect of an appeal.

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, after the 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 such case proceedings shall not

be stayed otherwise than by a restraining order which may be granted by the Board of Architectural Review or a court of record on application, on notice to the officer from whom the appeal is taken, and on due cause shown.

(Ord. No. 1999-54, § 2B, 4-27-99)

Sec. 54-247. - Hearing an appeal.

The Board shall fix a reasonable time for the hearing of the appeal, or other matter referred to it, and give public notice of it, as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing any party may appear in person or by agent or by attorney.

(Ord. No. 1999-54, § 2B, 4-27-99)

Sec. 54-248. - Appeal from Board of Architectural Review to Circuit Court.

A person who may have a substantial interest in any decision of the Board or any officer or agent of the appropriate governing authority may appeal from a decision of the Board to the circuit court in the county by filing with the clerk of court a petition in writing setting forth plainly, fully, and distinctly why the decision is contrary to law. The appeal must be filed within thirty days after the affected party receives actual notice of the decision of the Board.

(Ord. No. 1999-54, § 2B, 4-27-99)

Sec. 54-249. - Reserved.

Section 2. This Ordinance shall become effective upon ratification.

_____ Ratified in City Council this _____ day of _____
_____ in the Year of Our Lord, 2017,
and in the _____ Year of the Independence of
the United States of America

John J. Tecklenburg _____
Mayor, City of Charleston

ATTEST: _____
Vanessa Turner Maybank
Clerk of Council