



**item type**

Public Hearings: Quasi-Judicial Matters

**meeting date**

January 8, 2025

**prepared by**

Jeffrey Briggs

**approved by**

Michelle del Valle, Assistant City Manager

**subject**

Ordinance amending Article VIII Historic Preservation of Chapter 58, concerning the process and procedures for certificates of review subject to public notice and public hearing, and penalties for unauthorized significant alterations or demolitions. (1st reading)

**motion | recommendation**

The Historic Preservation Board has recommended approval of this ordinance.

**background**

The Historic Preservation Board (HPB) has proposed and is recommending approval of Ordinance changes to incorporate amended procedures to be used in the review of applications for construction on historic properties, as referred to in the code as 'certificates of review' and to incorporate procedures and penalties for unauthorized alterations or demolitions.

**Proposed Review Process Codification**

The existing code sets forth a procedure that asks applicants to meet with the HPB staff prior to a formal application and then the code sets forth the formal process with notice requirements for the public hearing, at which time, the HPB may act on the application. The HPB has suggested incorporating a "recommendation" to applicants for a preliminary review by the HPB prior to the formal public noticed application. In that way, an applicant can visit the HPB informally with concept plans to determine the feasibility of the request and obtain design direction before spending more money on design plans for a formal noticed public hearing review. If an applicant does not want to spend that time for a preliminary review, they can choose at their initiative to proceed directly with an advertised public hearing review. Also, for most small requests that do not involve additions to the existing structures, the staff will direct the applicant to combine the preliminary and final approvals in order to expedite the process.

**Review of Construction Plans**

The HPB is also proposing a post approval review of the building permit plan submissions in order to ensure that the building permit plans incorporate the design and materials as was agreed upon by the HPB, prior to issuance of the building permit. This change is welcomed by

the staff as many issues that have occurred in the past relate to changes made during the construction plan completion process. This should not result in a time delay for applicants as the building permit review time is typically more than one month in length, and this step can occur at the same time as the other departments of the city are reviewing the initial permit submission.

### **Authentic Reconstructions when Non-Contributing Structures are Demolished**

The code is not clear that any permitted demolitions of non-contributing structures in a historic district must be replaced with authentic replicas of architectural styling from the era of development of the district, which typically is the 1920's-1940's. It has been the practice and policy of the HPB to require such, and this will codify that design requirement.

### **Unauthorized Alteration or Demolition**

While the code is clear that an HPB approval is needed for significant alterations to the exterior of historic structures or for demolitions of historic structures, in whole or in part, this Ordinance proposes code clarifications dealing with the outcome of unauthorized exterior alterations or demolitions exceeding the scale and scope of what may have been approved. This ordinance would codify such actions as may be applied to such occurrences. The Ordinance also clarifies the overlapping roles of the Code Compliance Board and the Historic Preservation Board.

There are two scenarios. One scenario is that "out of the blue" someone demolishes part of, or all of a historically designated structure with no permit and no approval by the HPB. This is a scenario that occurred when the front porch was demolished from the Victorian farmhouse at 1331 Aloma Avenue. Workers showed up on a Saturday and by Monday the porch was in ruins. In such cases, the referral is to the Code Compliance Board, who can require an authentic replica to be reconstructed and who may also impose a fine or penalty of up to \$500/day until such is completed.

Another scenario is when a certificate of review has been approved by the HPB and demolition or significant alteration has occurred that was not permitted by the HPB. The code is clear that one must restore or replicate what has been demolished. What the HPB fears is that unauthorized demolitions will occur if the only penalty is the reconstruction of replicas. This code amendment clarifies that the HPB may revoke setback variances previously approved (because those setback variances would not have been granted if the structure was approved to be demolished). The code amendment also clarifies that the property owner may propose financial compensation if they wish to retain the previously authorized variance approvals.

In order to provide a framework for such financial remedies, this ordinance bases that upon the value of the building. Since there can be legitimate disagreements over valuations of structures (cost to rebuild) and to avoid such disagreements so that the HPB does not have to arbitrate such, the value of the building improvements (not land) on the OCPA tax rolls is what the City uses in other code sections. The proposed financial compensation could be up to a maximum percentage (30%) of the OCPA value, in addition to incorporating the authentic replication of the previous structure. It would be at the discretion of the property owner whether to offer and agree to such financial compensation and the level of such compensation would be a decision by the HPB with this not to exceed number.

It is also important to note that any such financial decision by the HPB can be appealed to the City Commission. The HPB is not an unelected board that makes decisions about the approval of certificates of review, the granting of variances or any compensation requirements for unauthorized actions. All of those decisions of the HPB can be appealed to the City Commission.

## **alternatives | other considerations**

## **fiscal impact**

## **attachments**

1. Update to Historic Preservation Regs. Ord\_. 10-31-2024 DL 11-5-2024 clean

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING ARTICLE VIII HISTORIC PRESERVATION OF CHAPTER 58 OF THE LAND DEVELOPMENT CODE CONCERNING THE PROCESS AND PROCEDURES FOR CERTIFICATES OF REVIEW SUBJECT TO THE PUBLIC NOTICE AND PUBLIC HEARING PROCESS, PENALTIES FOR UNAUTHORIZED SIGNIFICANT ALTERATIONS OR DEMOLITIONS; PROVIDING FOR CONFLICTS, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.**

**WHEREAS**, the City Commission of the City of Winter Park (the "City") recognizes that the preservation of historic homes is important to the health, safety and general welfare of the community; and

**WHEREAS**, the City Commission recognizes that the Historic Preservation Board plays an important role in the review of changes, modification to historically designated structures and contributing structures within historic districts; and

**WHEREAS**, the City Commission has received a recommendation from the Historic Preservation Board for improvements to the Historic Preservation regulations concerning the process for certificates of review and for occasions of unauthorized significant alterations to or demolitions; and

**WHEREAS**, in accordance with section 163.3174, Florida Statutes, and section 58-372 of the City Code of Ordinances, the City's local planning agency, which is the designated Planning and Zoning Board, has also reviewed and made recommendations as to the amendments set forth herein;

**NOW, THEREFORE, BE IT ENACTED BY THE CITY OF WINTER PARK, FLORIDA:**

**SECTION I: RECITALS.** The above recitals are true and correct, are adopted and incorporated herein, and constitute the legislative findings of the City Commission of the City of Winter Park.

**SECTION II:** Portions of Chapter 58, Land Development Code, Article VIII, Historic Preservation, is hereby amended to read as shown in Section III, and words with single underlined type shall constitute additions to the original text and ~~strike through~~ shall constitute deletions to the original text. Sections and provisions not included are not being amended.

**SECTION III:** Chapter 58, Land Development Code, Article VIII, Historic Preservation, Division 4 – Certificate of Review, Section 58-467; Section 58-473 (d); Section 475; Section 58-479 (6); Section 58-481 (9); Section 58-482 and Section 58-500 are hereby amended to read as follows:

## **DIVISION 4. - CERTIFICATE OF REVIEW**

### **Sec. 58-466. - Purpose.**

The purpose of the certificate of review process is to assist owners of historical landmarks or resources and owners in historic districts who plan to rehabilitate, restore or redevelop their property for contemporary use to achieve their goals and take advantage of incentive programs while preserving the historic character, architecture and materials, to the greatest extent possible.

### **Sec. 58-467. - Pre-application conference/preliminary review.**

(a) Before entering binding commitments or incurring substantial expense in the preparation of plans, surveys and other data, and before submitting an application for a certificate of review, an applicant shall confer with the city HPB staff to obtain information and guidance. The purpose of such conference is to further discuss and clarify conservation objectives and design guidelines in cases that do not conform to established objectives and the Land Development Code. In no case shall any statement or representation made prior to the official application review be binding on the HPB, the city commission or any city departments.

(b) Applicants must submit a design concept plan to the HPB for a preliminary review prior to the formal advertised and noticed review for a final decision. The purpose of the HPB preliminary review is for the applicant to receive non-binding input from the HPB on what aspects and features of the design concept plan and variance requests appear to be acceptable or not. For minor requests that do not include additions to any structures, the city staff may allow an applicant to skip the preliminary review of the design concept plan under this subsection.

### **Sec. 58-473. - Certificates of review.**

(a) An applicant for a special certificate of review whether for new construction, exterior alteration, rehabilitation, restoration, renovation, addition, demolition, or relocation shall submit an application to the HPB accompanied by photographs, elevations, site plans, floor plans, and samples of materials as deemed appropriate by the HPB to fully describe the proposed appearance, materials and architectural design of the building(s), other outbuildings and site plan. The application shall include floor area ratio, impervious lot coverage and height and setback calculations as well as landscape and hardscape plans if applicable. The applicant shall provide adequate information to enable the HPB to visualize the effect of the proposed action on the applicant's building and its adjacent buildings and streetscapes. If such application involves a designated archaeological zone, the applicant shall provide full plans and specifications of work that may affect the surface and subsurface of the archaeological site.

(b) In the event that the applicant is requesting a special certificate of review for demolition, the HPB shall be provided with the details for the proposed disposition of the site. The HPB may require architectural drawings, financial plans or other information regarding any proposed new construction. Proposed demolitions shall be reviewed subject to the considerations in section 58-479.

(c) The HPB will rule upon applications for a certificate of review during a public hearing. A notice of the hearing shall be published in a newspaper of general circulation within the city at least 13 days in advance of the hearing. Written notice of the time and place of the hearing and the proposed action to be taken shall be mailed to all owners of record of property within 500 feet of the property requesting a certificate of review. A notice shall also be posted upon the property at least 15 days in advance of the hearing.

~~(d) All approvals of certificates of review shall be conditioned (whether specifically enumerated or not) upon a subsequent review and approval by the HPB of the construction plans in order to insure the plans and representations made at the public hearing are in fact being incorporated accurately into the building permit plans and application submissions. This review of the building permit plans may occur during the same time period that such plans are undergoing review by city departments for the building permit so as not to add time or delay for the project. Applicants are advised to insure such submittals to HPB and for building permit include specific detail on the exterior materials to be used for the project including roof type, wall materials and coverings, window detail including fenestration and mullin detail, garage and other doors, shutters, if applicable, and all other relevant details as shown on the plans previously approved by the HPB. The certificate of review shall not become effective until such building permit review and approval by the HPB is accomplished. An approved certificate of review and any accompanying variance(s) shall expire one year after the date of approval if the approved construction, rehabilitation, restoration, renovation, addition, demolition, or relocation has not physically commenced on the property within such time period. Upon the request of the property owner, staff may administratively extend the approval for an additional year. Thereafter, upon request by the property owner one additional one-year extension may granted by the HPB upon good cause.~~

**Sec. 58-475. - Time limit.**

Within 30 days after receiving an application, the city staff will review the application for completeness and notify the applicant of deficiencies, if any. Thereafter, the HPB shall act upon an application within 60-120 days of the city staff determining that the city has received receipt of a complete application requesting the proposed action. The time limits under this section may be waived at any time by mutual written consent of the applicant and the city staff or HPB.

**Sec. 58-479. - Guidelines for demolition of designated properties or properties within historic districts.**

In addition to all other provisions of this article, in determining whether to approve or deny an application involving significant changes to the exterior façade(s) or the demolition of designated structures on properties ~~or properties~~ located within designated historic districts, the HPB shall consider the following criteria:

(1) The structure is of such interest or quality that it would reasonably meet national, state or local criteria for designation as a historic landmark.

(2) The structure is of such design, craftsmanship or material that it could be reproduced only with great difficulty and/or expense.

(3) The structure is one of the last remaining examples of its kind in the city, the county, or the region.

(4) The structure contributes to the historic character and scale of a designated historic district.

(5) Retention of the structure promotes the general welfare of the city by providing an opportunity for study of local history, architecture, and design, or by developing an understanding of the importance and value of a particular culture and heritage.

(6) There are definite plans for reuse of the property presented to the HPB for approval, if the proposed demolition is carried out, and such plans shall be for an authentic re-creation of architectural styling prevalent during the era of the predominant development of the district and there is an explanation of what the effect of those plans will be on the character of the surrounding area.

Noncontributing elements (see section 58-481 (9)) are exempt from the provisions of subsections (1) through (5) above.

**Sec. 58-481. - Procedure for demolition of buildings and structures on properties designated on the Winter Park Register of Historic Places, or located within designated historic districts or as identified in the Florida Master Site File or the historic survey.**

(9) *Noncontributing structures.* Owners of noncontributing structures within any historic district shall not be required to show economic hardship in applying for a certificate of approval for demolition for such structures. However, the new construction proposed as a replacement must conform to the adopted design guideline standards of the historic district, when such design standards have been adopted and if no design standards have been adopted, then the replacement shall be an authentic re-creation of an architectural style that reflects a prevalent architectural style of the era of development of the district.

**Sec. 58-482. - Reconstruction of destroyed historic landmarks.**

The loss of local historic landmarks, resources or contributing structures within a historic district that have been destroyed by fire or other natural disaster may be ameliorated by efforts to reconstruct the resource. Reconstruction means the process of reproducing by new construction the exact form and detail of a demolished building structure or object as it appeared at a certain point in time. The HPB shall encourage reconstruction when deemed appropriate and when such reconstruction is based upon evidence of the size, form, architectural style and detail of the demolished building. The reconstruction will be recognized as such in the Winter Park Register of Historic Places. This section shall only apply as indicated above to circumstances an individually designated historic landmark structure or a contributing historic structure within a local or national register historic district has been damaged or destroyed by fire, tornado or other natural disaster.

### **Sec. 58-500. - Violations.**

(a) Any person who carries out or causes to be carried out any work in violation of this article shall be required to restore the subject improvement, landscape feature or site either to its appearance prior to the violation or in accordance with a certificate of review approved by the HPB. This civil remedy shall be in addition to and not in lieu of any criminal prosecution and civil penalty otherwise provided in section 2-107 in this Code.

~~(b) Any person who carries out or causes to be carried out any work in violation of this article that causes irreparable or irreversible damage to a designated historic resource, or to any contributing or noncontributing resource within a designated historic district a fine not to exceed three times the amount per violation provided for in section 2-107 in this Code. Any person who violates this article is subject to code enforcement fines and lien imposed by the Code Compliance Board. Without limiting the foregoing, the Code Compliance Board has the authority to order the restoration of any unauthorized removal or significant alteration to the exterior of a structure, or demolition in part or in whole, to a designated historic structure, or to any contributing or noncontributing structure within a designated local or national register historic district to exactly the same condition and exterior materials as existed prior to the alteration or demolition and impose a fine for each day until such is achieved. Further, the Code Compliance Board has the authority to enforce the HPB's decision under subsection (c) and impose a fine for each day until compliance is achieved.~~

(c) In violation cases where there exists a certificate of review approval by the HPB for said property or structure and no such specific HPB approval has been granted for such unauthorized significant alterations to the exterior or demolitions, the HPB, after conducting a noticed public hearing and giving the applicant an opportunity to be heard, may (i) revoke the certificate of approval and any variances previously granted by the HPB and require full restoration, which may include an authentic replica with authentic exterior materials; (ii) amend the certificate of approval and revoke some or all variances previously granted by the HPB; or (iii) impose further conditions on an amended certificate of approval and variances, which may include



requiring the applicant to make a monetary contribution for historic preservation purposes. Any monetary contribution for historic preservation purposes required by the HPB as set forth above shall not exceed an amount equal to thirty (30) percent of the value of the improperly altered building on the most recent tax roll of the Orange County Property Appraiser.

**SECTION IV:** CONFLICTS. If any Ordinances or parts of Ordinances are in conflict herewith, this Ordinance shall control to the extent of the conflict.

**SECTION V:** SEVERABILITY. If any section, subsection, sentence, clause, phrase, provision, or word of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, then such invalidity or unconstitutionality shall not be held to invalidate or impair the validity, force, or effect of any other remaining provisions of this Ordinance.

**SECTION VI:** CODIFICATION. Sections III of this Ordinance shall be codified and made a part of the City of Winter Park Land Development Code, and the sections of this Ordinance may be renumbered or re-lettered to accomplish this intention. The word "Ordinance" may be changed to "Section," "Article," or other appropriate word. The City Clerk is given liberal authority to ensure proper codification of this Ordinance, including the right to correct scrivener's errors.

**SECTION VII:** This Ordinance shall become effective immediately following approval by the City Commission at its second reading.

**ADOPTED** at a regular meeting of the City Commission of the City of Winter Park, Florida, held in City Hall, Winter Park, on this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

**City of Winter Park**

\_\_\_\_\_  
Sheila DeCiccio, Mayor

Attest: \_\_\_\_\_  
Rene Cranis, City Clerk