



TOWN OF ELIZABETH

COMMUNITY DEVELOPMENT DEPARTMENT

TO: Historic Advisory Board

FROM: Zach Higgins, AICP, Community Development Director
Alexandra Cramer, Planner/Project Manager

DATE: May 13th, 2024

SUBJECT: Discussion Regarding Section 16-11-40 & Section 16-11-30(b) of the Elizabeth Municipal Code

Certificate of Appropriateness Requirements:

Section 16-11-40 of the Elizabeth Municipal Code mandates that a certificate of appropriateness is necessary for any new construction, alteration, relocation, or demolition involving the exterior of historic properties or those within historic districts. However, it lacks an exemption for like-for-like replacements. Staff suggests amending this section to incorporate a provision exempting like-for-like replacements of existing materials. This modification aims to simplify the process for property owners undertaking routine maintenance on their properties.

Publication Requirement for Public Notices:

Section 16-11-30(b) of the Elizabeth Municipal Code currently necessitates that public notice of public hearings for certificates of appropriateness be published in the Town's publication of record at least ten (10) days before the hearing. This requirement supplements the posting of the public hearing on the Town's website and bulletin board, as well as at the physical location of the property applying for the certificate of appropriateness. However, conflicts arise in scheduling certificate of appropriateness requests due to the combination of the ten-day publication requirement and the Historic Advisory Board's (HAB) monthly meetings. This timing discrepancy may result in project delays for applicants who are unable to meet the publication requirement within the specified timeframe. To streamline the process for individuals on the local historic register, Staff recommends eliminating the publication of record requirement for certificates of appropriateness. This adjustment would align with the Town's commitment to enhancing accessibility and efficiency in the historic preservation process.

Staff Recommendation

Staff recommends that the Historic Advisory Board discuss the code requirements in Section 16-11-40 and Section 16-11-30(b). Staff also recommends that the Historic Advisory Board consider providing a formal recommendation to the Board of Trustees regarding any proposed changes to the code.



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ATTACHMENTS

Section 16-11-40 Current Code Language

Section 16-11-30(b) Current Code Language

Sec. 16-11-30. - Designation procedure.

(a) Nomination and Application.

- (1) Applications shall be submitted to the Town Clerk for consideration on a form provided by the Historic Advisory Board.
- (2) The applicant shall pay all public notice expenses, recording fees and any other fees established by resolution of the Board of Trustees.
- (3) A nomination for listing in the Town's Historic Register may be made:
 - a. By the owner or owners of the property or properties to be designated; or
 - b. By any current resident of the Town with the written consent of the owner or owners of the property or properties to be designated.
- (4) Where nominated by someone other than the property owner or less than all of the property owners in a district nominated for designation, the Town or at least one (1) member of the HAB shall contact the owner or owners of such property or properties nominated for designation in writing, outlining the reasons and effects of listing in the Town's Historic Register within thirty (30) days of receipt of nomination.
- (5) Applications determined incomplete shall be returned to the applicant within thirty (30) days with a request for additional information.
- (6) Applications for a district nomination shall not be complete UNLESS seventy-five (75) percent of the property owners within the proposed district consent to the nomination by signature.

(b) HAB Hearing.

- (1) Within forty-five (45) days after an application is determined complete, or within a time frame agreed upon by the applicant and the Town, a public hearing shall be held by the HAB.
 - a. The Secretary shall provide notice of the date, time, and location of the public hearing to the applicant, the owner or owners of record, the owners of adjacent properties and, if known, to other persons having a legal or equitable interest in the properties or district nominated for designation at least ten (10) days prior to the hearing.
 - b. A legal notice indicating the nature of the hearing, the property involved, and the time, date, and place of the scheduled public hearing, shall be published in the Town's publication of record at least ten (10) days prior to the hearing.
 - c. The notice shall be posted at the property's physical location at least ten (10) days prior to the hearing.
- (2) HAB may continue the hearing and request additional information from the applicant so long as the continued hearing date is within thirty (30) days or as expressly agreed to by the applicant.

(c) HAB Review.

- (1) At a public hearing, the HAB shall recommend the approval, approval with conditions, or denial of the proposed application and shall issue written findings based on the application's conformance with the established criteria and with the purposes of this ordinance as amended.
 - (2) The HAB shall forward the application with a copy of its report and findings of recommendation of approval, recommendation of approval with conditions, or recommendation of denial to the Board of Trustees.
- (d) Board of Trustee Hearing.
- (1) Within thirty (30) days after receipt of the HAB's recommendation regarding an application, the Board of Trustees shall hold a public hearing to consider adopting by ordinance those properties qualifying for designation. Such notice and hearing shall be conducted in conformance with the procedures set forth in Section 16-11-30(b)(2), except the Town Clerk shall perform the responsibilities assigned therein to the Secretary.
 - (2) The Board of Trustees shall review the application for conformance with this ordinance as amended.
 - (3) The Board of Trustees shall, by ordinance, approve, approve with conditions, or deny the proposed application and shall issue written findings based on the applicable criteria for approval.
 - (4) The Town shall provide a copy of the results of the Board of Trustees' final action to the applicant/applicants, all owners of record, the Community Development Director, the Building Official, and any other person who has requested in writing to receive the same.
- (e) Recording of Designation. Within thirty (30) days of the effective date of an ordinance designating a historic property or historic district for preservation, the Town shall record the ordinance with the clerk and recorder of Elbert County.
- (f) Records. The Town shall maintain a current record of all historic properties and historic districts and pending designations.
- (g) Limitation on Resubmission and Reconsideration of Proposed Designation. Whenever the Board of Trustees denies a proposed designation, no person shall submit an application that is the same or substantially the same for at least one (1) year from the effective date of the final action on the denied application.
- (h) Appeals.
- (1) The decision of the Board of Trustees shall be final and may only be appealed to a district court having jurisdiction over such matter within thirty (30) days of the Board of Trustees decision.
- (i) Revocation of Designation.
- (1)

If a historic property or historic district has been altered to a degree that it no longer retains its historic integrity, the owner may apply to the HAB for a revocation of the designation or the HAB shall recommend revocation of the designation to the Board of Trustees in the absence of the owner's application to do so. The revocation application shall be reviewed under the same procedures described in Section 16-11-30. A revocation of designation by alteration will only be considered in the case of a natural disaster or a mistake in the designation, NOT as a result of property owner negligence or unapproved modifications.

- (2) Upon the Board of Trustee's decision to revoke a designation, the HAB shall promptly notify the owners of the historic property or historic district and the Town shall cause to be prepared an ordinance including the legal description of the affected historic property or historic district stating notice of the revocation, and schedule the ordinance for Board of Trustees review. Upon adoption by the Board of Trustees, the ordinance shall be recorded.

(Ord. 22-09, §2 9-27-2022)

Sec. 16-11-40. - Alterations to properties and historic districts on the Town's historic register.

(a) Requirements.

- (1) A certificate of appropriateness issued by the HAB is required before carrying out any new construction, alteration, relocation, or demolition involving the exterior of any historic property or property within a historic district (including non-contributing properties).
- (2) A building permit will not be issued for any new construction, alteration, relocation, or demolition involving the exterior of any historic property or property within a historic district (including non-contributing properties) without obtaining a certificate of appropriateness as issued by the HAB.
- (3) No person shall receive a building permit for any building, structure, object, or other feature on a site or element of a district when an application for historic designation under Section 16-11-30 is pending for such property.

(b) Application.

- (1) A certificate of appropriateness request for alteration shall be initiated by the owner(s). Such application shall be submitted to the Town for consideration on a form provided by the HAB.
- (2) If the Town determines the certificate of appropriateness application is complete, the Town shall promptly refer the application to the HAB. If the Town determines the application is incomplete, the applicant shall be advised of the reasons in writing within thirty (30) days of submittal.

- (c) Certificate of Appropriateness for alteration Hearing. Within forty-five (45) days after a certificate of appropriateness application is determined complete by the Town, or within a time frame agreed upon by the applicant and the Town, a public hearing shall be held by the HAB. Such

notice and hearing shall be conducted in conformance with the procedures set forth in Section 16-11-30(b) (2).

(d) Review Criteria.

- (1) Compliance with the Town of Elizabeth Design Review Standards & Guidelines adopted by the Town and the Secretary of the Interior's Standards for the Treatment of Historic Properties.
- (2) For non-contributing properties within a historic district:
 - a. Compatibility with the property's current design, materials, features, size, scale and proportion, and massing; or
 - b. Compatibility with the historic district's design, materials, features, size, scale and proportion, and massing.
- (3) Infill construction within historic districts shall be differentiated from the historic properties but be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the historic district and its environment.

(e) HAB Review.

- (1) At a public hearing, the HAB shall approve, approve with conditions, or deny the proposed application and shall issue written findings based on the application's conformance with the established criteria and with the purposes of this Article XI.
- (2) If the HAB approves or approves the application with conditions, the HAB shall issue and send a certificate of appropriateness to the applicant, and a copy of such to the Community Development Director, the Building Official, and any other person who has requested in writing to receive the same within thirty (30) days. If approved with conditions, such conditions shall be stated in writing in the certificate of appropriateness.
- (3) If the HAB denies the application, the HAB shall notify, in writing, the applicant, the Community Development Director, the Building Official, and any other person who has requested in writing to receive the same within thirty (30) days of such denial. Such denial shall state the reasons for the denial and the procedures for appeal to the Board of Trustees.
- (4) HAB may continue the hearing and request additional information from the applicant so long as the continued hearing date is within thirty (30) days or as expressly agreed to by the applicant.
- (5) The applicant may resubmit an amended application or reapply for a building permit that takes into consideration the recommendations of the HAB or appeal the denial to the Board of Trustees.
- (6) If an application for a certificate of appropriateness is denied, no person may submit a subsequent application for the same alteration or construction within one (1) year from the date of the final action upon the earlier application.

(f) Appeals.

- (1) If a certificate of appropriateness is denied by the HAB, the applicant may appeal the denial to the Board of Trustees by filing a written notice with the Town Clerk within fifteen (15) days after receipt of the HAB's denial.
- (2) Within forty-five (45) days after an appeal is received by the Town Clerk, or within a time frame agreed upon by the applicant and the Town, a public hearing shall be held by the Board of Trustees.
- (3) Notice of the Board of Trustees consideration of the appeal and hearing shall be provided in accordance with Section 16-11-30(b)(2), except the Town Clerk shall perform the responsibilities of the Secretary.
- (4) The Board of Trustees shall review the appeal for a clear error made in the application of the applicable code criteria.
- (5) If the Board of Trustees affirms the HAB's denial of the application, then the applicant may apply for a certificate of economic hardship.

(Ord. 22-09, §2 9-27-2022)