

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE AMENDING CHAPTER 30, ARTICLE 30-3, SECTION 30-3.H.3 OF THE CODE OF ORDINANCES OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA**

BE IT ORDAINED, by the City Council of the City of Fayetteville, North Carolina, that:

Section 1. The Section 30-3.H.3, *Historic/Landmark Overlay (HLO) District*, is amended by replacing the current text with the following text in its entirety:

a. **Purpose**

In recognition that the historic heritage of the City is one of its most valued and important assets, the Local Historic Overlay (LHO) district is established and intended to safeguard that heritage by identifying, recognizing, preserving, maintaining, protecting, and enhancing old, historic, and architecturally valuable structures, properties, districts, or neighborhoods that serve as important elements and visible reminders of the social, cultural, economic, political, or architectural history of the City, County, State, or nation. More specifically, the Local Historic Overlay is intended to:

1. Foster civic pride;
2. Preserve the City's heritage;
3. Preserve the character and desirable historic, architectural, and aesthetic features of the City;
4. Stabilize and enhance the value of properties that are within historic districts or designated as historic landmarks, as well as the areas surrounding them;
5. Protect and enhance the attractiveness of the City to residents, tourists, and visitors, thereby supporting and stimulating business and industry;
6. Protect and enrich the quality of life for City residents;
7. Foster wider public knowledge and appreciation of structures, properties, districts, or neighborhoods that provide a unique and valuable perspective on the social, cultural, economic traditions and ways of life of past generations;

8. Foster architectural creativity by preserving physical examples of outstanding architectural designs and techniques of the past; and
9. Encourage new structures and developments that will be harmonious with and complement the character of existing structures, properties, and districts designated in accordance with this section.

b. **Procedures and Standards for LHO District Classification**

Except as modified by subsections (1) and (2) below, classification or reclassification of land into the LHO District shall occur in accordance with the procedures and requirements of Section [30-2.C.1](#), Map Amendment (Rezoning).

1. *Procedure*

a. *Pre-Application Requirements*

The following actions shall occur before the Map Amendment (Rezoning) application is submitted:

1. In the case of a proposal to apply the LHO District classification to a geographic area, the Historic Resources Commission shall undertake an inventory of properties of historical, prehistorical, architectural, and cultural significance within the City and submit the inventory and description of the proposed boundaries of the area to be classified to the North Carolina Office of Archives and History;
2. The Historic Resources Commission shall make or cause to be made an investigation and report describing the historic, prehistorical, architectural, educational, or cultural significance of the buildings, structures, sites, areas, features, objects, or surroundings proposed to be included in the LHO as well as a description of the proposed boundaries of the area to be classified;
3. The City shall forward the investigative report to the State Historic Preservation Office of the North Carolina Department of Cultural Resources, which shall be given at least 30 days

to review the report and submit a written analysis and recommendations to the City Council;  
and

4. Upon receiving a written analysis and recommendations on the report from the State Historic Preservation Office, or expiration of the 30-day review period set forth in sub-section iv above, the City Council may choose to refer the report and boundary description to the City Manager to initiate a Map Amendment (Rezoning) application to classify the proposed area into the LHO District.

## 2. *Standards*

In addition to the review standards in Section [30-2.C.1.g](#), Map Amendment (Rezoning) Standards, the City Council shall adopt a Map Amendment (Rezoning) application to classify land as a LHO District only after determining that the proposed expansion of the historic district, or new historic district is of special significance in terms of its historical, prehistorical, architectural, or cultural importance, and possesses integrity of design, setting, workmanship, materials, feeling, and/or association.

### c. **Certificate of Appropriateness Required**

After land is classified as within the LHO District, no exterior portion of any building or other structure (including appurtenant features), aboveground utility structure, or outdoor advertising sign on the property shall be constructed, erected, altered, restored, moved, or demolished without approval and issuance of a Certificate of Appropriateness in accordance with Section [30-2.C.8](#), Certificate of Appropriateness.

### d. **Review Guidelines**

1. Except as provided in Section [30-3.H.3.d.2](#) below, the report entitled Design Guidelines for Fayetteville's Historic Districts and Local Landmarks, as adopted and subsequently amended by the Historic Resources Commission and the City Council, is hereby adopted and incorporated by

reference as part of this Ordinance to serve as guidance in reviewing applications for Certificates of Appropriateness:

2. The current edition of the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings shall be the sole guidance used in reviewing applications for Certificates of Appropriateness submitted by the State of North Carolina.

e. **Prevention of Demolition by Neglect**

1. *Responsibility to Maintain Property*

The owner or other person having legal possession, custody, or control of a property classified as in the LHO District shall maintain the exterior and structural features of the property and not allow the occurrence of conditions of neglect that constitute or substantially contribute to deterioration threatening the structural integrity of structures or architectural details important to the property's historic, prehistoric, architectural, or cultural character. Failure to do meet this responsibility shall be a violation of this Ordinance. Conditions that, if substantial or serious enough, could constitute a condition of neglect include, but are not limited to, the following:

- a. Deterioration of exterior walls, foundations, or other vertical support that causes leaning, sagging, splitting, listing, or buckling;
- b. Deterioration of flooring or floor supports, roofs, or other horizontal members that causes leaning, sagging, splitting, listing, or buckling;
- c. Deterioration of external chimneys that causes leaning, sagging, splitting, listing, or buckling;
- d. Deterioration or crumbling of exterior plasters or mortars;
- e. Ineffective waterproofing of exterior walls, roofs, and foundations, including broken windows or doors;
- f. Defective protection or lack of weather protection for exterior wall and roof coverings, including lack of paint, or weathering due to lack of paint or other protective covering;

- g. Rotting, holes, and other forms of decay;
- h. Deterioration of exterior stairs, porches, handrails, window and door frames, cornices, wall facings, and architectural details that causes delamination, instability, loss of shape and form, or crumbling;
- i. Heaving, subsidence, or cracking of sidewalks, steps, or pathways;
- j. Deterioration of fences, gates, and accessory structures;
- k. Deterioration that has a detrimental effect upon the special character of the district as a whole or the unique attributes and character of the historic landmark; and
- l. Deterioration of any exterior feature so as to create or permit the creation of any hazardous or unsafe conditions to life, health, or other property.

2. *Enforcement*

Enforcement of violations of the requirement to not allow conditions of neglect shall be in accordance with [Article 30-8](#): Enforcement, except that the Historic Resources Commission is expressly authorized to file complaints with the City Manager about deteriorating properties in LHO Districts in accordance with Section [30-8.E.2](#), Complaints Regarding Violations, and the following procedures shall apply instead of those in Section [30-8.E.4](#):

- a. On finding that a condition of neglect has been allowed to occur, the City Manager shall provide written notification of violation, by personal service or certified mail, return receipt requested, to the owner of the property or other persons having legal possession, custody, or control of the property. Such notification shall:
  - 1. Describe the location and nature of the conditions of neglect;
  - 2. State the actions necessary to abate the conditions of neglect; and
  - 3. Order that the conditions of neglect be corrected or an administrative hearing be requested within a stated period of time not to exceed 30 days after receipt of the Notice of Violation.

- b. If the violator requests an administrative hearing within the specified time period, the City Manager shall schedule a hearing with the violator not less than ten days nor more than 30 days after receiving the request, and shall provide written notice of the time and place of the hearing to the violator.
- c. The purpose of the hearing is to discuss the conditions of neglect and how they might be corrected, and to determine whether the violator wishes to petition the Historic Resources Commission to consider a claim of undue economic hardship in accordance with Section [30-3.H.3.e.3](#) below.
- d. At the conclusion of the hearing, the City Manager shall make a final determination of whether conditions of neglect exist and, if finding that conditions of neglect exists in violation of this Ordinance, shall order the violator to undertake actions to correct the violation within a stated period of time. If the violator petitions for consideration of a claim of undue economic hardship, the City Manager's order shall be stayed until after the Historic Resources Commission has reached a decision on the claim.

### 3. *Safeguards from Undue Economic Hardship*

#### a. *Petition for Consideration of Claim*

1. The violator may petition the Historic Resources Commission to consider a claim that compliance with the order to correct the violation would create undue economic hardship by submitting a written petition to the City Manager within seven days after the hearing.
2. The City Manager shall forward the petition to the Historic Resources Commission to hear and review at its next available regular meeting, and provide notice of the time and place of the meeting to the petitioner.

#### b. *Evidence of Hardship*

The petitioner shall bear the burden of presenting sufficient evidence to allow the Historic

Resources Commission to determine that undue economic hardship exists. Such evidence shall include at least the following:

1. *For All Properties:*

- A. Nature of property ownership (individual, business, or nonprofit) or other legal possession, custody, or control;
- B. A description of the structures involved;
- C. Petitioner's financial resources;
- D. Cost of required repairs or other corrective measures;
- E. Assessed value of the land and improvements;
- F. Real estate taxes for the previous two years;
- G. Amount paid for the property;
- H. Date of purchase;
- I. Party from whom purchased, including a description of the relationship between the owner and the person from whom the property was purchased, or other means of acquisition of title, such as by gift or inheritance;
- J. Annual debt service, if any, for previous two years; and
- K. Any listing of the property for sale or rent, price asked, and offers received, if any.

2. *For Income-Producing Properties:*

- A. If the property is income-producing, the annual gross income from the property for the previous two years;
- B. Itemized operating and maintenance expenses for the previous two years, including proof that adequate and competent management procedures were followed; and
- C. Annual cash flow, if any, for the previous two years.

**f. Temporary Boarding Up of Windows and Doors**

No windows or doors of a deteriorating structure classified as in a HLO District shall be boarded up or barricaded unless authorized for only a short period of time by a Certificate of Appropriateness approved in accordance with Section [30-2.C.8](#), Certificate of Appropriateness, as a means of protecting the structure against further deterioration pending replacement of the boarded-up or barricaded windows or doors. Any temporary boarding up or barricading of a window or door that will remain in place for more than one month shall be painted as specified by the Certificate of Appropriateness.

Section 2. It is the intention of the City Council, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code or Ordinances and this section may be renumbered to accomplish this objective, City of Fayetteville, North Carolina.

ADOPTED this the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

CITY OF FAYETTEVILLE

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MITCH COLVIN, Mayor

ATTEST:

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PAMELA J. MEGILL, City Clerk