

Current Ordinance

17.80.010. Legislative intent.

The regulations in this chapter have been adopted to preserve districts and specific buildings in the city of Newport which reflect elements of its cultural, social, economic, political and architectural history. This chapter is designed to stabilize and improve property values in such historic districts, to preserve specific buildings, to foster civic beauty, to strengthen the local economy and to promote the use of such districts and specific buildings for the education, pleasure and welfare of the residents of the city of Newport. (Ord. 2000-4 (part), 2000: Ord. 65-94 (part), 1994: prior code § 1262.02.01)

Proposed Changes

17.80.010. Legislative purpose.

The purpose of historic district zoning in the city of Newport is to protect our historic assets and to guide new growth in ways that enrich and maintain Newport’s sense of place and authentic historic character, for now and for future generations.

Newport has a remarkable built environment recognized as unique among American cities, including the most extensive collection of extant 17th and 18th century colonial structures in the nation; a broad array of mid-19th century resort architecture, much of it designed by the leading architects of that era; an unparalleled set of elaborate gilded age “cottage” mansions and numerous residential, commercial, military, industrial and institutional buildings reflecting the city’s long maritime history. Even more significant is that this environment reflects architectural and social values over centuries of historical development unequalled by any other city in the country. Newport’s architectural vitality is dependent on the context within districts including streetscapes, neighborhoods, and vistas as well as the quality and character of individual buildings that make up its districts.

The purposes of this ordinance are to:

- Safeguard the heritage of Newport as represented by those buildings, structures, and sites that reflect Newport’s cultural, social, economic, political and architectural history;
- Foster civic and neighborhood pride and sense of identity based on Newport history and the beauty and accomplishments of the past;
- Stabilize and improve the economic vitality of Newport;
- Encourage and provide advice and guidance to private owners for the preservation, restoration, rehabilitation, redevelopment and continued use of historic buildings, structures and sites;
- Promote the use of historic assets for education, pleasure and welfare of citizens of and visitors to Newport;
- Facilitate the early identification of issues and resolution of conflicts between the preservation of historic resources and proposed alternative treatments;
- Review proposed alterations in historic districts against a set of standards that call for the retention, repair and reuse of historic fabric; allow for in-kind replacement of historic fabric when appropriate; and encourage alterations and new construction to be compatible with the district yet respect and allow architectural variety, innovation and imagination;
- Encourage appropriate design and foster the consistent application of the standards of review without regard to personal taste.

The regulations in this chapter have been adopted to preserve districts and specific buildings in the city of Newport which reflect elements of its cultural, social, economic, political and architectural history. This chapter is designed to stabilize and improve property values in such historic districts, to preserve specific buildings, to foster civic beauty, to strengthen the local economy and to promote the use of such districts and specific buildings for the education, pleasure and welfare of the residents of the city of Newport. (Ord. 2000-4 (part), 2000: Ord. 65-94 (part), 1994: prior code § 1262.02.01)

Current Ordinance

Proposed Changes

17.80.020. Usages.

The following terms shall have the following meanings:

“Alteration” means an act that changes one or more of the exterior architectural features of a structure or its appurtenances, including, but not limited to the erection, construction, reconstruction, or removal of any structure or appurtenance.

“Appurtenances” means features other than primary or secondary structures which contribute to the exterior historic appearance of a property, including, but not limited to paving, doors, windows, signs, materials, decorative accessories, fences, and historic landscape features, as inventoried and listed and approved by the council of the city of Newport.

“Certificates of appropriateness” means a certificate issued by the Newport historic district commission established under this chapter indicating approval of plans for alteration, construction, repair, removal, or demolition of a structure or appurtenances of a structure within a historic district. Appropriate for the purpose of passing upon an application for a certificate of appropriateness means not incongruous with those aspects of the structure, appurtenances, or the district which the commission has determined to be historically or architecturally significant.

17.80.020. Definitions.

The following terms shall have the following meanings:

“Alteration” means an act that changes one or more of the exterior architectural features of a structure or its appurtenances, including, but not limited to the erection, construction, reconstruction, or removal of any structure or appurtenance. (See Major and Minor Alteration)

“Appropriate” – see “Certificate of Appropriateness”

“Appurtenances” means features other than primary or secondary structures which contribute to the exterior historic appearance of a property, including, but not limited to paving, doors, windows, signs, materials, decorative accessories, fences, solar panels, roof top air conditioning units, commercial style ventilators and historic landscape features, ~~as inventoried and listed and approved by the council of the city of Newport.~~

“Certificates of ~~appropriateness~~ Appropriateness” means a certificate issued by the Newport historic district commission established under this chapter indicating approval of plans for alteration, construction, repair, removal, or demolition of a structure or appurtenances of a structure within a historic district. Appropriate for the purpose of passing upon an application for a certificate of appropriateness means not incongruous with those aspects of the structure, appurtenances, or the district which the commission has determined to be historically or architecturally significant.

“Complete Application” means an application for Certificate of Appropriateness that is deemed to contain all of the required and necessary information in order for the commission to render a decision.

“Conceptual Approval” means a preliminary and limited approval by the commission of the location, size, scale and massing of proposed ~~N~~ew ~~C~~onstruction or ~~M~~ajor ~~A~~alteration. ~~Final approval is contingent upon acceptance of all stylistic and historic details including but not limited to window choice, siding choice, trim choice and materials.~~ A conceptual approval

Current Ordinance

“Construction” means the act of adding to an existing structure or erecting a new principal or accessory structure or appurtenances to a structure, including, but not limited to buildings, extensions, outbuildings, fire escapes and retaining walls.

“Demolition” means an act or process that destroys a structure or its appurtenances in part or in whole.

Historic District. As defined in Section 17.08.010 of this zoning code.

“Removal” means a relocation of a structure on its site or to another site.

“Repair” means a change meant to remedy damage or deterioration of a structure or its appurtenances.

“Structure” means anything constructed or erected, the use of which requires permanent or temporary location on or in the ground, including, but not limited to buildings, gazebos, billboards, outbuildings, decorative and retaining walls, and swimming pools. (Ord. 2000-4 (part), 2000: Ord. 65-94 (part), 1994: prior code § 1262.02.02)

Proposed Changes

“Construction” means the act of adding to an existing structure or erecting a new principal or accessory structure or appurtenances to a structure, including, but not limited to buildings, extensions, outbuildings, fire escapes, and retaining walls.

“Contributing Structure” means a structure designated contributing on the Newport Historic Structures Inventory or one which the commission deems contributing because it adds to the local district’s sense of time, place, character, or historical development by location, design, setting, materials, workmanship, or association~~add to the local district’s sense of time, place, character, or historical development. In the event the structure is substantially deteriorated, it may still be considered a contributing structure. To be so designated the structure should conform to the character of the local district as defined in that district’s “nominating papers”. The rationale for such designation should be explicit and provided to the homeowner upon request by the commission or designated staff. Newport’s Historic District is currently composed of eight unique local districts each with its own distinct character. These districts are: Bellevue Avenue, Bellevue Avenue-Casino, Fort Adams, Kay-Catherine-Old Beach, Newport National Landmark District (Easton’s Point-Washington Square-Historic Hill and Harbor), Ocean Avenue, Ochre Point-Cliffs, and Rose Island. A substantially deteriorated structure may still be deemed a contributing structure.~~

“Demolition” means an act or process that destroys or razes a structure or its appurtenances in part or in whole, or permanently impairs its structural integrity, including its ruin by neglect of necessary maintenance and repairs.

“Demolition Through Owner Neglect” means- allowing a building structure to fall into such a state of disrepair that it becomes necessary or desirable to demolish it. Property owners may be ordered by a city authority to maintain property and make necessary repairs to protect and preserve the building.

“Exterior Features” mean the architectural style, design and arrangement of the exterior of a structure or appurtenance, including, but not limited to, the kind or texture of the building material, the type and style of all windows, doors, and other related architectural fixtures, features, details or elements.

“Historic Designed Landscape” means a landscape that was consciously designed or laid out by a landscape architect, master gardener, architect, or horticulturist according to design principles, or an amateur gardener working in a recognized style or tradition. The landscape may be associated with a significant person(s), trend, or event in landscape architecture; or illustrate an important development in the theory and practice of landscape architecture. Aesthetic values play a significant role in designed landscapes. Examples include parks, campuses,

Current Ordinance

walking trails and estates. ~~Importantly, Newport has a number of nationally significant landscapes, now exempted~~

Proposed Changes

~~from review; the commission should recognize and encourage the preservation of such Historic Designed Landscapes.~~

Current Ordinance

Proposed Changes

(All NEW)

~~“Historic District.”~~ As defined in Section 17.08.010 and 17.80.030 of this zoning code.

~~“Removal” means a relocation of a structure on its site or to another site.~~

~~“Repair” means a change meant to remedy damage or deterioration of a structure or its appurtenances.~~

~~“Historic Landscape Features” means those features determined to be older than fifty (50) years which characterize the historic and designed character of a property's setting, including, but not limited to, decorative or retaining walls, gates, fences, statuary or other objects of art, seating or other furnishings, arbors, trellises, fountains, paths, walkways, driveways, curbing, the contour and elevations of landforms and designed grades, and under certain circumstances, trees.~~

~~“In-Kind Replacement” means replacement of an architectural feature, damaged or deteriorated beyond repair, where the new feature will exactly match the feature being replaced in dimensions, design, configuration, texture and visual appearance, and match materials as closely as possible. Replacement which will differ from the existing in material, design, configuration, texture, dimensions and other visual qualities is an alteration and not an In-Kind Replacement. shall be reviewed by staff as an alteration; see “Alteration, Major”.~~

~~“Major Alteration” means an Alteration which significantly affects the historic, cultural, or architectural integrity, interpretability, or character of a building, structure, site or district. Generally includes the kind of work which is normally done with the aid of a professional drafter or professional quality plans.~~

~~“Insignificant Alteration” means an act or activity deemed to be minor and not incongruous with existing structures, appurtenances or historic district resources.~~

~~“Mechanical Equipment” means any heating, ventilating and telecommunications equipment that is installed on the exterior of a structure or property including, but not limited to, air-conditioning condenser units, generators and satellite dishes.~~

~~“Minor Alteration” means an Alteration which does not significantly affect the historic, cultural, or architectural integrity, interpretability, or character of a building, structure, site or district. Generally includes the kind of work which is normally done without the aid of a professional drafter or professional quality plans.~~

~~“Minor Modification” means a revision to approved plans that is deemed to be minor in nature and not incongruous with all other approved elements of that plan.~~

~~“New Construction” means a new principal or accessory free standing structure which does not alter character defining historic materials.~~

~~“Newport Standards for the Treatment of Historic Properties” or “Newport Standards.”~~ As defined in Section 17.80.040 of this zoning code.

~~“Newport Historic Structures Inventory” means an inventory of historic structures within the Historic District, identified as Contributing or Non-Contributing, as adopted and approved by the Newport City Council.~~

Current Ordinance

Proposed Changes

“Non-Contributing Structure” means a structure that is designated non-contributing on the Newport Historic Structures Inventory, or one that the commission deems non-contributing because it does not add to the local district’s sense of time, place, character or historical development as defined in that district’s “nominating papers”. Even for those structures that retain certain features which reflect the character of the district, the structure may still be considered non-contributing if it has lost its integrity due to substantial changes in location, design, setting, materials or workmanship.

“Ordinary Maintenance” means work, other than replacement, meant to remedy damage to deterioration of a structure or its appurtenances, involving no change in materials, dimensions, design, configuration, texture or visual appearance. ~~eyelical acts or activities that ensure that existing structures and appurtenances remain intact and functional without alteration or removal of existing architectural features.~~

“Paving or Patio” means the surface treatment of ~~horizontal~~ grade level surfaces intended for pedestrian or vehicular travel.

“Reconstruction” means the act or process of depicting, by means of new construction, the form, features, and detailing of a documented non-surviving site, landscape, building, structure, or portion thereof for the purpose of replicating its appearance at a specific period of time and in its historic location.

“Removal” means a relocation of a structure on its site or to another site.

“Repair” means an act or activity that is limited in scope -and intended to remedy damage or deterioration of an existing structure, appurtenance or individual architectural feature thereof but does not involve any change in ~~material,~~ design, dimension or detailing, and matches materials as closely as possible; ~~including, but not limited to, re-roofing, minor patching or selective replacement of small areas of damage or deterioration.~~

“Standards for Maintenance of Properties” means documented maintenance criteria as adopted by Council for existing properties.

“Structure” means anything constructed or erected, the use of which requires permanent or temporary location on or in the ground, including, but not limited to buildings, gazebos, billboards, outbuildings, tents, decorative and retaining walls, gates, gateposts, and swimming pools. (Ord. 2000-4 (part), 2000: Ord. 65-94 (part), 1994: prior code § 1262.02.02)

Current Ordinance

17.80.030. Designation of historic districts.

For the purposes of this chapter, the boundaries of historic districts are established as shown on a map entitled "Historic District Zoning Map," which map is filed in the office of the city clerk. Such map is hereby incorporated as a part of this chapter. (Ord. 2006-36 § 1, 2006; Ord. 2005-20 § 1, 2005; Ord. 2000-4 (part), 2000: Ord. 65-94 (part), 1994: prior code § 1262.02.03)

17.80.040. Historic district commission.

A. There is hereby established a historic district commission to carry out the purpose of this chapter.

B. Membership and Appointment.

1. The commission shall consist of nine qualified members, residents of the city of Newport, to be appointed by the mayor of the city of Newport with the consent of the city council. Members shall be appointed for three-year terms, except that the initial appointments of some of the members shall be for less than three years to the end that the initial appointments shall not reoccur at the same time. Members shall be eligible for reappointment.
2. Members of the commission shall have a demonstrated interest in historic preservation. Duly organized and existing preservation societies may present to the mayor lists of qualified citizens to be considered for appointment.
3. The mayor of the city of Newport shall have the right with the consent of the council to name an auxiliary member to the commission in addition to the regular members, which auxiliary member shall sit as an active member, upon the request of the chairman of the commission when and if a regular member of the commission is unable to serve at any meeting of the commission.
4. In the event of a vacancy on the commission, the mayor shall promptly make an interim appointment, with the consent of the council, for the remainder of the unexpired term. Vacancies on the commission shall be filled within ninety (90) days.

Proposed Changes

17.80.030. Designation of historic districts.

For the purposes of this chapter, the boundaries of historic districts are established as shown on a map entitled "Historic District Zoning Map," which map is filed in the office of the city clerk. Such map is hereby incorporated as a part of this chapter. (Ord. 2006-36 § 1, 2006; Ord. 2005-20 § 1, 2005; Ord. 2000-4 (part), 2000: Ord. 65-94 (part), 1994: prior code § 1262.02.03)

17.80.040. Historic district commission.

A. There is hereby established a historic district commission to carry out the purpose of this chapter.

B. Membership and Appointment.

1. The commission shall consist of nine (9) qualified members and two (2) auxiliary members, residents of the city of Newport, to be appointed by the mayor of the city of Newport with the consent of the city council. Members shall be appointed for three- (3) year terms, except that the initial appointments of some of the members shall be for less than three (3) years to the end so that the initial appointments shall not reoccur at the same time. Members shall be eligible for reappointment.
2. Members of the commission shall have a demonstrated interest in historic preservation and shall include at least five (5) representatives of professions which are directly related to historic preservation, such as architecture, architectural history, planning, archaeology, law or, building construction or restoration, provided candidates from such professions are willing to serve.
3. Duly organized and existing preservation societies may present to the mayor lists of qualified citizens to be considered for appointment, and the commission shall include at least one (1) such qualified citizen shall be, appointed by the Mmayor with the consent of the city council from such list.-
4. The mayor of the city of Newport shall, have the right with the consent of the council, to name an two (2) auxiliary members to the commission in addition to the regular members, which auxiliary members shall sit as an active members, upon the request of the chairman of the commission when and if a regular member of the commission is unable to serve at any meeting of the commission.
5. In the event of a vacancy on the commission, the mayor shall promptly make an interim appointment, with the consent of the council, for the remainder of the unexpired term. Vacancies on the commission shall be filled within ninety (90) days

Current Ordinance

C. Organization of the Commission.

1. The commission shall organize annually and, by election, shall select from its membership a chairman, vice-chairman and a secretary.

2. The commission shall:

a. Adopt and publish all rules and regulations necessary to carry out its functions under the provisions of this chapter; and

b. Adopt and publish standards of review which shall be in harmony with the Secretary of the Interior's Standards and Guidelines for Rehabilitating Historic Buildings, 36 CFR 671, as amended, within twelve (12) months following the adoption of this chapter to inform historic district residents, property owners, and the general public of those criteria by which the commission shall determine whether to issue a certificate of appropriateness. The commission may from time to time amend these standards as reasonably necessary, and it shall publish all such amendments.

c. Such rules, procedures and standards and any additions and amendments thereto shall be submitted to the council for its approval.

3. Conduct of Business.

a. The chairman shall preside over all commission meetings and shall have the right to vote.

b. The vice-chairman shall, in the case of absence or disability of the chairman, perform the duties of the chairman.

c. All meetings of the commission shall be open to the public and any person or his duly constituted representative shall be entitled to appear and be heard on any matter before the commission reaches its decision.

d. The secretary shall keep a record of all resolutions, proceedings, finding of fact, decisions and actions and such record shall be on file for public view in the department of planning, zoning, development and inspections.

e. Notice of the commission meetings shall appear in a newspaper of general circulation in the city seven days prior to such meetings.

f. Six members shall constitute a quorum and the concurring vote of a majority, but not less than five of the members present shall be necessary for approval of any plans before the commission for review and for establishing or amending commission rules, regulation and standards of review.

Proposed Changes

C. Organization of the Commission.

1. The commission shall organize annually and, by election, shall select from its membership a chairman, vice-chairman and a secretary.

2. The commission shall:

a. Adopt and publish all rules ~~and~~ regulations and procedures necessary to carry out its functions under the provisions of this chapter; and

b. Adopt and publish standards of review and guidelines which shall be in harmony with the Newport Standards for the Treatment of Historic Properties ~~the Secretary of the Interior's Standards and Guidelines for Rehabilitating Historic Buildings, 36 CFR 671, as amended, within twelve (12) months following~~ and adopted by the adoption of this chapter ~~City Council,~~ to inform historic district residents, property owners, and the general public of those criteria by which the commission shall determine whether to issue a certificate of appropriateness. ~~Certificate of Appropriateness.~~ The commission may from time to time amend these standards of review and guidelines as reasonably necessary, and it shall publish all such amendments.

c. Such rules, regulations, ~~procedures,~~ standards of review and standards guidelines, and any additions and amendments thereto, shall be submitted to the council for its approval.

3. Conduct of Business.

a. The chairman shall preside over all commission meetings and shall have the right to vote.

b. The vice-chairman shall, in the case of absence or disability of the chairman, perform the duties of the chairman.

c. All meetings of the commission shall be open to the public and any person or his duly constituted representative shall be entitled to appear and be heard on any matter before the commission reaches its decision.

d. The secretary shall keep a record of all resolutions, proceedings, finding of fact, decisions and actions and such record shall be on file for public view in the department of planning, zoning, development and inspections.

e. Notice of the commission meetings shall appear in a newspaper of general circulation in the city seven (7) days prior to such meetings.

f. Six (6) members shall constitute a quorum and the concurring vote of a majority, but not less than five (5) of the members present shall be necessary for approval of any plans before the commission for review and for establishing or amending commission rules, regulation and regulations, procedures, ~~standards of review and guidelines.~~

Current Ordinance

D. Powers and Procedures.

1. Certificate of Appropriateness Required.

a. Before a property owner may commence construction, alteration, repair, removal or demolition affecting the exterior appearance of a structure or its appurtenances within any designated historic district, the owner must apply for and receive a certificate of appropriateness from the commission approving such construction, alteration, repair, removal or demolition.

b. In applying for a certificate of appropriateness, a property owner must comply with the application procedures as established by the commission pursuant to Chapter 4524.1 of the General Laws, as amended, and the provisions of this chapter.

c. A certificate of appropriateness is necessary whether or not state law requires a permit from the building official. The building official shall not issue a building permit until the commission has granted a certificate of appropriateness.

2. Application for Certificate of Appropriateness.

a. applications for certificates of appropriateness shall be filed with the commission at the office of planning, zoning, development and inspections. The zoning enforcement officer or his designee shall determine if such application is complete and shall forward complete applications, together with all maps, plans, and other data to the commission. Incomplete applications shall be returned to the applicant within seven working days of receipt by the department of planning, zoning, development and inspections.

b. The commission shall require the applicant to submit information which is reasonably necessary to evaluate the proposed construction, alteration, repair, removal or demolition including, but not limited to site plans, elevation drawings, photographs or other information deemed appropriate by the commission and set forth in the commission's rules and regulations adopted pursuant to this chapter.

Proposed Changes

D. Powers and Procedures.

1. Certificate of Appropriateness Required.

a. Before a property owner may commence construction, alteration, repair, removal or demolition affecting the exterior appearance of a structure or its appurtenances within any designated historic district, the owner must apply for and receive a ~~certificate of appropriateness~~ Certificate of Appropriateness from the commission approving such construction, alteration, repair, removal or demolition.

~~b. In applying for a certificate of appropriateness, a property owner must comply with the application procedures as established by the commission pursuant to Chapter 4524.1 of the General Laws, as amended, and the provisions of this chapter.~~

~~c. A certificate of appropriateness is necessary whether or not state law requires a permit from the building official. The building official shall not issue a building permit until the commission has granted a certificate of appropriateness.~~

~~2. Application for Certificate of Appropriateness.~~

~~a. applications for certificates of appropriateness shall be filed with the commission at the office of planning, zoning, development and inspections. The zoning enforcement officer~~ The Director of Planning, Zoning, Development and Inspections or his designee, may issue without a hearing, but not deny, Certificates of Appropriateness for certain items including, but not limited to: 1) Minor Alterations to non-contributing structures or appurtenance; 2) Major Alterations to Non-Contributing Structures; 3) In-kind replacement; 4) One-year extensions to existing Certificates of Appropriateness; 5) Installation of new or replacement roof coverings, mechanical equipment, signs, gutter systems, awnings, minor modifications to plans previously approved by the commission; 6) Waiver of application fees for demonstrated financial hardship; 7) Such other alterations or administrative matters as the commission shall authorize, a list of which shall be available to the public at the office of Planning, Zoning, Development and Inspections.

~~b. In applying for a Certificate of Appropriateness, a property owner must comply with the application procedures as established by the commission pursuant to Chapter 45-24.1 of the General Laws, as amended, and the provisions of this chapter.~~

~~c. A Certificate of Appropriateness is necessary whether or not state law requires a permit from the building official. The building official shall not issue a building permit until a Certificate of Appropriateness and/or stamped plans are presented with the application for a building permit.~~

~~2. Application for Certificate of Appropriateness.~~

~~a. Applications for Certificates of Appropriateness shall be filed with the office of Planning, Zoning, Development and Inspections. The Zoning Enforcement Officer or his~~

Current Ordinance

designee shall determine if such application is complete and shall forward complete applications, together with all maps, plans, and other data to the commission. Incomplete applications shall be returned to the applicant within seven (7) working days of receipt by the department of ~~planning, zoning, development and inspections~~ Planning Zoning, Development and Inspections. b. The commission shall require the applicant to submit information which is reasonably necessary to evaluate the proposed construction, alteration, repair, removal or demolition

Proposed Changes

including, but not limited to site plans, elevation drawings, photographs or other information deemed appropriate by the commission and set forth in The Newport Standards for the Treatment of Historic Properties and in the commission's rules ~~and~~ regulations, ~~procedures, standards of review and guidelines~~, adopted pursuant to this chapter, which information may be submitted in digital format acceptable to the commission.

Current Ordinance

3. The Commission's Review of Applications. In reviewing the applications and plans, the commission shall give consideration to:
- a. The historic and architectural significance of the structure and its appurtenances;
 - b. The way in which the structure and its appurtenances contribute to the historical and architectural significance of the district;
 - c. The appropriateness of the general design, arrangement, texture, material and siting proposed in the plans, and
 - d. The commission shall pass only on exterior features of a structure and its appurtenances and shall not consider interior arrangements.

Proposed Changes

3. The Commission's Review of Applications. ~~In reviewing the applications and plans, the commission shall give consideration to:~~
- ~~a. The historic and architectural significance of the structure and its appurtenances;~~
 - ~~b. The way in which the structure and its appurtenances contribute to the historical and architectural significance of the district;~~
 - ~~c. The appropriateness of the general design, arrangement, texture, material and siting proposed in the plans, and~~
 - ~~d. The commission shall pass only on for Certificate of Appropriateness.~~
- a. In deciding whether to issue a Certificate of Appropriateness, and in making the determination that the proposed alteration is not incongruous with those aspects of the structure, appurtenances, or the district which the commission has determined to be historically or architecturally significant, the commission shall apply the following Newport Standards for Treatment of Historic Properties. The Newport Standards, adapted from the Secretary of the Interior's Standards and Guidelines for Rehabilitating Historic Buildings, 36 CFR 671, as amended, are basic principles to be applied in a reasonable manner to preserve historic districts and structures, while allowing for reasonable change, architectural variety, innovation and imagination. The Newport Standards are intended to insure that properties in Newport's historic districts are not altered improperly. The goal is to minimize reliance on the individual tastes and preferences of members of the commission and instead set up clear rules that everyone will understand.
- b. In conducting its review, the commission shall apply The Newport Standards and shall also take into account the relative architectural and historic significance of structures; the integrity and condition of historic fabric; the reasonableness of the proposed alteration; and the practical realities of alternatives that minimize harm to the historic district. The Newport Standards shall be most strictly applied to structures of iconic, public and national significance.

Current Ordinance

Proposed Changes

c. The commission shall review only exterior features of a structure and its appurtenances and shall not consider interior arrangements.

~~4. Decisions of the Commission. All decisions of the commission shall be in writing. The commission shall articulate and explain the reasons and basis of each decision and in the case of a decision not to issue a certificate of appropriateness, the commission shall include the basis for its conclusion that the proposed activity would be incongruous with those aspects of the structure, appurtenances, or the district which the commission has determined to be historically or architecturally significant. The commission shall send a copy of the decision to the applicant.~~

~~5. Special considerations regarding valuable historic resources and demolition:~~

~~a. In the case of an application for construction, repair, or alteration, removal, or demolition affecting the exterior appearance of a structure or its appurtenances, which the commission deems so valuable to the city, state or nation that the loss which the commission deems so valuable to the city, state or nation that the loss thereof will be a great loss to the city, state or nation, the commission shall endeavor to work out with the applicant an economically feasible plan for the preservation of such structure.~~

Doors, window sash and frames covered by storm doors or windows shall be considered exterior features.

d. The commission may give Conceptual Approval for proposed New Construction or Major Alterations. Conceptual Approval does not assure that the commission will issue a Certificate of Appropriateness. Final approval is contingent upon acceptance of all stylistic and historic details including but not limited to window choice, siding choice, trim choice and materials.

ALL NEW:

E. The Newport Standards are:

1. For Contributing Structures:

The commission shall apply the following standard of review to Contributing Structures:

a. Retain Historic Character

Retain and preserve the historic character of a Contributing Structure. The removal of historic materials or alteration of features and spaces that characterize a Contributing Structure should not be undertaken.

~~b. Unless the commission is satisfied that the retention of such structure constitutes a hazard to public safety, which hazard cannot be eliminated by economic means available to the applicant, including the sale of the structure to any purchaser willing to preserve such structure, the commission shall file with the building official its rejection of such application.~~

Avoid Conjecture

The buildings of Newport are a physical record of their time, place and use. Avoid changes that create a false sense of historical development, such as adding a conjectural feature or architectural elements from other buildings.

~~c. Unless the commission votes to issue a certificate of appropriateness for such construction, alteration, and repair, removal and demolition, the commission shall file with the building official its rejection of such application.~~

Maintain Significant Alterations

Retain and preserve changes to a Contributing Structure that have acquired historic significance in their own right.

~~d. In the absence of change in such structure arising from casualty, no new application for the same or similar work shall be filed within one year after such rejection.~~

Preserve Character-Defining Features and Workmanship

Preserve distinctive features, finishes and construction techniques or examples of craftsmanship that characterize a Contributing Structure.

~~e. In the case of any structure deemed to be valuable for the period of architecture it represents and important to the neighborhood within which it exists, the commission may file with the building official its certificate of appropriateness for such application if any of the circumstances under which a certificate of appropriateness might have been given under the proceeding paragraphs are in existence, or if:~~

~~i. Preservation of such structure is a deterrent to a major improvement program which will be of substantial benefit to the community;~~

~~ii. Preservation of such structure would cause undue or unreasonable financial hardship to the applicant, taking into account the financial resources available to the applicant including sale of the structure to any purchaser willing to preserve such structure; or~~

~~iii. Preservation of such structure would not be in the best interest of the community;~~

~~iv. When considering an application to demolish or remove a structure of historic or architectural value, the commission shall assist the applicant in identifying and evaluating alternatives to demolition, including sale of the structure on its present site. In addition to any other criteria, the commission also shall consider whether there is a reasonable likelihood that some person or group other than the applicant is willing to purchase, move and preserve such structure and whether the applicant has made continuing bonafide and reasonable efforts to sell the structure to any such purchaser willing to move and preserve such structure.~~

~~f. Demolition Through Owner Neglect. The city council, in consultation with the historic district commission, may identify structures of historical or architectural value whose deteriorated physical condition endangers the preservation of the structure or its appurtenances. The council shall publish standards for maintenance of properties within the historic district. Repair before Replacement~~

The historic materials out of which Contributing Structures buildings are constructed are significant, and once lost they cannot be recovered. Every effort should be made to repair rather than replace deteriorated historic fabric and features. When the severity of deterioration requires replacement of features or fabric, the replacement should match the old in materials, dimensions, design, configuration, texture and visual appearance.

f. Avoid Damaging Treatments

Do not use chemical or physical treatments, such as sandblasting, that cause damage to historic materials

g. Minimize Harm from Alterations

Undertake exterior alterations, including new additions, in such a manner that minimizes harm to historic materials and that if removed will not change the essential form and integrity of a Contributing Structure. Make proposed additions or exterior alterations to a Contributing Structure compatible with the existing materials, features, size, visual relationships and massing to protect the integrity and scale of the original historic structure or site. Make new alterations or additions clearly discernible from the old. The differentiations may or may not be stylistic, and may be as subtle as a change in footprint or material.

2. For Non-Contributing Structures:

The commission shall apply the following standard of review to Non-Contributing Structures:

a. Compatibility

The alteration of a Non-Contributing Structure shall be generally of such size, scale, siting, massing, set back, materials, and detail as will be compatible with other structures in the surrounding historic district.

b. Preserving Character Defining Features

Current Ordinance

Proposed Changes

The commission may encourage but shall not require owners to preserve distinctive features, finishes, construction techniques or examples of craftsmanship that are present in a Non-Contributing Structure and which add to the character of the surrounding district.

3. For New Construction

The commission shall apply the following standard of review to New Construction or Reconstruction:

a. Compatibility

New Construction should be compatible with the surrounding historic area in terms of size, scale, siting, massing, set back, materials and details.

b. Architectural Quality

New Construction should be of thoughtful and considered architectural design.

c. Appearance

New Construction may clearly read as such and need not present a false historic appearance.

4. Decisions of the Commission. All decisions of the commission shall be in writing. The commission shall articulate and explain the reasons and basis of each decision and in the case of a decision not to issue a certificate of appropriateness, the commission shall include the basis for its conclusion that the proposed activity would be incongruous with those aspects of the structure, appurtenances, or the district which the commission has determined to be historically or architecturally significant. The commission shall send a copy of the decision to the applicant

ii. Preservation of such structure would cause undue or unreasonable financial hardship to the applicant, taking into account the financial resources available to the applicant including sale of the structure to any purcha

5. Special considerations regarding valuable historic resources and demolition:

a. In the case of an application for construction, repair, or alteration, removal, or demolition affecting the exterior appearance of a structure or its appurtenances, which the commission deems so valuable to the city, state or nation that the loss which the commission deems so valuable to the city, state or nation that the loss thereof will be a great loss to the city, state or nation, the commission shall endeavor to work out with the applicant an economically feasible plan for the preservation of such structure.

b. Unless the commission is satisfied that the retention of such structure constitutes a hazard to public safety, which hazard cannot be eliminated by economic means available to the applicant, including the sale of the structure to any purchaser willing to preserve such structure, the commission shall file with the building official its rejection of such application.

c. Unless the commission votes to issue a certificate of appropriateness for such construction, alteration, and repair, removal and demolition, the commission shall file with the building official its rejection of such application.

d. In the absence of change in such structure arising from casualty, no new application for the same or similar work shall be filed within one year after such rejection.

e. In the case of any structure deemed to be valuable for the period of architecture it represents and important to the neighborhood within which it exists, the commission may file with the building official its certificate of appropriateness for such application if any of the circumstances under which a certificate of appropriateness might have been given under the proceeding paragraphs are in existence, or if:

i. Preservation of such structure is a deterrent to a major improvement program which will be of substantial benefit to the community;

Current Ordinance

Proposed Changes

ser willing to preserve such structure; or

See G
below

iii. Preservation of such structure would not be in the best interest of the community;

iv. When considering an application to demolish or remove a structure of historic or architectural value, the commission shall assist the applicant in identifying and evaluating alternatives to demolition, including sale of the structure on its present site. In addition to any other criteria, the commission also shall consider whether there is a reasonable likelihood that some person or group other than the applicant is willing to purchase, move and preserve such structure and whether the applicant has made continuing bonafide and reasonable efforts to sell the structure to any such purchaser willing to move and preserve such structure.

See H
below

f. Demolition Through Owner Neglect. The city council, in consultation with the historic district commission, may identify structures of historical or architectural value whose deteriorated physical condition endangers the preservation of the structure or its appurtenances. The council shall publish standards for maintenance of properties within the historic district. Upon the petition of the historic district commission that the historic structure is so deteriorated that its preservation is endangered, the council may establish a reasonable time not less than thirty (30) days within which the owner must begin repairs. If the owner has not begun repairs within the allowed time, the council shall hold a hearing at which the owner may appear and state his or her reasons for not commencing repairs. If the owner does not appear at the hearing or does not comply with the council's orders, the council may cause the required repairs to be made at the expense of the city and cause a lien to be placed against the property for repayments. (Ord. 2000-4 (part), 2000: Ord. 99-24 § 1, 1999; Ord. 65-94 (part), 1994: prior code § 1262.02.04)

4. For Demolition

a. Demolition shall be deemed by the commission to be a Major Alteration.

b. The commission shall not approve the demolition of Contributing Historic Structures that retain integrity of condition. If a request for demolition is based on structural instability or advanced deterioration, a technical report prepared by a professional engineer or architect that details the nature and extent of specific problems shall be submitted. A standard condition of approval for demolition of a Contributing Historic Structure shall be the documentation of the existing building's elevations, including details and architectural features.

AND SEE H BELOW

ALL NEW:

F. Undue Hardship.

When, by reason of unusual circumstances, the strict application of any provision of this Ordinance would result in exceptional practical difficulty or undue economic hardship upon any owner of a specific structure, the commission, in passing upon applications, shall have the power to vary or modify strict adherence to said provisions or to interpret the meaning of said provisions so as to relieve such difficulty or hardship; providing such variances, modifications or interpretations shall remain in harmony with the general purpose and intent of said provisions, so that the architectural or historical integrity or character of the structure shall be maintained and substantial justice done. Notwithstanding the foregoing, the commission should grant the relief provided in this section only in rare and unique situations.

G. Decisions of the Commission. All decisions of the commission shall be in writing. The commission shall articulate and explain the reasons and basis of each decision and in the case of a decision not to issue a Certificate of Appropriateness, the commission shall include the basis for its conclusion that the proposed activity would be inconsistent with the Newport Standards and incongruous with those aspects of the structure, appurtenances, or the district which the commission has determined to be historically or architecturally significant. In addition, in its written denial, the commission, upon request of the applicant, shall include an outline of reasonable alternatives, methods, materials or other conditions under which the activity would likely be approved. The commission shall file its written decision in the land evidence records and shall send a copy of the written decision to the applicant.

H. Special considerations regarding valuable historic resources and demolition:

1. In the case of an application for construction, repair, or alteration, removal, or demolition affecting the exterior appearance of a structure or its appurtenances, which the commission deems so valuable to the city, state or nation that the loss thereof will be a great loss to the city, state or nation, the commission shall endeavor to work out with the applicant an economically feasible plan for the preservation of such structure.

2. Unless the commission is satisfied that the retention of such structure constitutes a hazard to public safety, which hazard cannot be eliminated by economic means available to the applicant, including the sale of the structure to any purchaser willing to preserve such structure, the commission shall file with the building official its rejection of such application.

3. Unless the commission votes to issue a Certificate of Appropriateness for such construction, alteration, repair, removal or demolition, the commission shall file with the building official its rejection of such application.

4. In the absence of change in such structure arising from casualty, no new application for the same or similar work shall be filed within one (1) year after such rejection.

5. In the case of any structure deemed to be valuable for the period of architecture it represents and important to the neighborhood within which it exists, the commission may file with the building official its Certificate of Appropriateness for such application if any of the circumstances under which a Certificate of Appropriateness might have been given under the preceding paragraphs are in existence, or if:

a. Preservation of such structure is a deterrent to a major improvement program which will be of substantial benefit to the community;

b. Preservation of such structure would cause undue or unreasonable financial hardship to the applicant, taking into account the financial resources available to the applicant including sale of the structure to any purchaser willing to preserve such structure; or

c. Preservation of such structure would not be in the best interest of the community;

d. When considering an application to demolish or remove a structure of historic or architectural value,

Current Ordinance

Proposed Changes

the commission shall assist the applicant in identifying and evaluating alternatives to demolition, including sale of the structure on its present site. In addition to any other criteria, the commission also shall consider whether there is a reasonable likelihood that some person or group other than the applicant is willing to purchase, move and preserve such structure and whether the applicant has made continuing bonafide and reasonable efforts to sell the structure to any such purchaser willing to move and preserve such structure.

6. Demolition Through Owner Neglect. The city council, in consultation with the historic district commission, may identify structures of historical or architectural value whose deteriorated physical condition endangers the preservation of the structure or its appurtenances. The council shall publish Standards for Maintenance of Properties within the historic district. Upon the petition of the historic district commission that the historic structure is so deteriorated that its preservation is endangered, the council may establish a reasonable time not less than thirty (30) days within which the owner must begin repairs. If the owner has not begun repairs within the allowed time, the council shall hold a hearing at which the owner may appear and state his or her reasons for not commencing repairs. If the owner does not appear at the hearing or does not comply with the council's orders, the council may cause the required repairs to be made at the expense of the city and cause a lien to be placed against the property for repayments. (Ord. 2000-4 (part), 2000: Ord. 99-24 § 1, 1999; Ord. 65-94 (part), 1994: prior code § 1262.02.04)

17.80.050. Failure of the commission to act.

The failure of the commission to act within forty-five (45) days from the date of a completed application filed with it shall be deemed to constitute approval, unless an extension is agreed upon mutually by the applicant and the commission. In the event, however, that the commission shall make a finding of fact that the circumstances of a particular application require further time for additional study and information than can be obtained within the aforesaid period of forty-five (45) days, then and in said event, the commission shall have a period of up to ninety days within which to act upon such application. (Ord. 2000-4 (part), 2000: Ord. 65-94 (part), 1994: prior code § 1262.02.05)

17.80.060. Advisory role.

In order to assist the city, its agencies, boards, commissions, staff, mayor and council on matters of historic preservation, the commission shall provide its expertise and advice as appropriate, at the request of any of said agencies, boards, commissions, staff or elected officials. (Ord. 2000-4 (part), 2000: Ord. 65-94 (part), 1994: prior code § 1262.02.06)

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In order to assist the city, its agencies, boards, commissions, staff, mayor and council on matters of historic preservation, the commission shall provide its expertise and advice, as appropriate, at the request of any of said agencies, boards, commissions, staff or elected officials. (Ord. 2000-4 (part), 2000: Ord. 65-94 (part), 1994: prior code § 1262.02.06)

17.80.070. Exceptions.

Nothing in this chapter shall be construed to prevent painting, routine maintenance or repair of any structure within a historic district, provided that such maintenance or repair does not result in any change of design, type of material, or appearance of the structure or appurtenance; nor shall anything in this chapter be construed to prevent the construction, alteration, repair, moving, or demolition of any structure under a permit issued by the building official prior to the passage of this chapter. The following are actions which are exempt from review:

- A. Paint colors, surface preparation or paint composition;
- B. Decorating--holiday or other;
- C. Normal landscaping, including shrubs, trees, flowers, window flower boxes, and other plantings, as long as historic landscape features as defined in the commission's adopted standards are not altered or removed, also, exterior lighting and flags and flag poles, lawn furniture, park benches, birdbaths;
- D. Repair of any existing walkway, driveway, wall, fence, or terrace if in the same location and with the same materials;
- E. Window air conditioning units;
- F. Temporary structures or signs used for special events and whose duration will not exceed any guidelines established by the commission;
- G. The reconstruction, in the same design, of a building, structure or exterior architectural feature damaged or destroyed by fire, storm or other disaster, provided such reconstruction is begun within one year and is continued to completion without substantial interruption;
- H. Storm windows and doors;
- I. All ordinary maintenance and repair of any of the existing features of a structure or building that does not involve a change in design, materials or the outward appearance. (Ord. 2000-4 (part), 2000: Ord. 65-94 (part), 1994: prior code § 1262.02.07)

17.80.070. Exceptions.

Nothing in this chapter shall be construed to prevent painting, ~~routine maintenance or repair of any structure~~ Ordinary Maintenance and Repair of any Structure or Appurtenance within a historic district, provided that such ~~maintenance or repair~~ painting or Ordinary Maintenance and Repair does not result in any change of design, type of material, or appearance of the structure or appurtenance; nor shall anything in this chapter be construed to prevent the construction, alteration, repair, moving, or demolition of any structure under a permit issued by the building official prior to the passage of this chapter. The following are actions which are exempt from commission review:

- A. Paint colors, surface preparation or paint composition;
- B. Decorating--holiday or other;
- C. ~~Normal landscaping~~ Landscaping, including shrubs, trees, flowers, window flower boxes, and other plantings, ~~as long as historic landscape features as defined in the commission's adopted standards are not altered or removed, also,~~ exterior lighting ~~and,~~ flags and flag poles, lawn furniture, park benches, and birdbaths;
- D. ~~Repair of any existing walkway, driveway, wall, fence, or terrace if in the same location and with the same materials;~~
- ~~E.~~ Window air conditioning units;
- ~~F. Temporary structures or signs used for special events and whose duration will not exceed any guidelines established by the commission;~~
- E. Ground-mounted air conditioning units generators (100 amps or less), if not visible from any public way, in compliance with zoning setback requirements, and if screened by fencing or shrubbery;
- F. Fences, gates, gateposts and walls that are non-contributing or less than fifty (50) years old.

Current Ordinance

~~G. The reconstruction, in the same design, of a building, structure or exterior architectural feature damaged or destroyed by fire, storm or other disaster, provided such reconstruction is begun within one year and is continued to completion without substantial interruption;~~

~~H. Storm windows and doors;~~

Historic Landscape Features and Historic Designed Landscapes. Importantly, Newport has a number of nationally significant landscapes, now exempted from review; the commission should recognize and encourage the preservation of such Historic Designed Landscapes.

H. All Ordinary Maintenance and Repair of any existing exterior features of a structure or appurtenance that does not result in any change of design, type of material, or appearance of the structure or appurtenance. (Ord. 2000-4 (part), 2000: Ord. 65-94 (part), 1994: prior code § 1262.02.07)

~~I. All ordinary maintenance and repair of any of the existing features of a structure or building that does not involve a change in design, materials or the outward appearance. (Ord. 2000-4 (part), 2000: Ord. 65-94 (part), 1994: prior code § 1262.02.07)~~ Temporary Structures or signs that are temporary and whose duration will not exceed any guidelines established by the commission;

J. Storm windows and storm doors;

K. Paving and Patios;

17.80.080. Appeals.

An aggrieved party with respect to a decision of the historic district commission shall have the right to appeal such decision to the zoning board of review. When hearing appeals from the commission decisions, the zoning board of review shall not substitute its own judgment for that of the commission, but must consider the issue upon the findings and the record of the commission. The zoning board of review shall not reverse a commission decision except on a finding of prejudicial procedural error, clear error or lack of support by the weight of the evidence in the record. The zoning board of review shall articulate and explain the reasons and basis of each decision of the record, and the

Proposed Changes

zoning board of review shall send a copy of the decision to the aggrieved party, to the historic district commission, and to all parties entering an appearance. An aggrieved party may appeal the decision of the zoning board of review on a matter appealed under this chapter to the superior court of Newport County. (Ord. 2000-4 (part), 2000: Ord. 65-94 (part), 1994: prior code § 1262.02.08)

Current Ordinance

17.80.080. Appeals.

An aggrieved party with respect to a decision of the historic district commission shall have the right to appeal such decision to the zoning board of review. When hearing appeals from the commission decisions, the zoning board of review shall not substitute its own judgment for that of the commission, but must consider the issue upon the findings and the record of the commission. The zoning board of review shall not reverse a commission decision except on a finding of prejudicial procedural error, clear error or lack of support by the weight of the

Proposed Changes

evidence in the record. The zoning board of review shall articulate and explain the reasons and basis of each decision of the record, and the zoning board of review shall send a copy of the decision to the aggrieved party, to the historic district commission, and to all parties entering an appearance. An aggrieved party may appeal the decision of the zoning board of review on a matter appealed under this chapter to the superior court of Newport County. (Ord. 2000-4 (part), 2000: Ord. 65-94 (part), 1994: prior code § 1262.02.08)

17.80.090. Enforcement.

Where there is a violation of any of the provisions of this chapter or of any section taken thereunder, the zoning officer, through the city solicitor, shall institute an appropriate action to prevent, enjoin, abate or remove such violation.

The zoning officer may bring an action against any property owner who fails to comply with the requirements of the chapter. Such actions shall be brought in the municipal court having jurisdiction where the violation occurred or is likely to occur. Plaintiffs may seek restraining orders and injunctive relief to restrain and enjoin violations or threatened violations of this chapter. (Ord. 2000-4 (part), 2000: Ord. 99-6 § 1, 1999)

17.80.090. Enforcement.

Where there is a violation of any of the provisions of this chapter or of any section taken thereunder, the zoning officer, through the city solicitor, shall institute an appropriate action to prevent, enjoin, abate or remove such violation-

as follows:

A. The zoning officer shall provide a warning for a first offense. If contributing features are at risk, a cease and desist order can be issued which protects those elements. Work could continue on non-contributing or unaffected features.

B. The zoning officer shall provide written notice of the offense and a reasonable opportunity to cure prior to any further enforcement.

C. The zoning officer may bring an action against any property owner who fails to comply with the requirements of the chapter. Such actions shall be brought in the municipal court having jurisdiction where the violation occurred or is likely to occur. Plaintiffs may seek restraining orders and injunctive relief to restrain and enjoin violations or threatened violations of this chapter. (Ord. 2000-4 (part), 2000: Ord. 99-6 ~~§~~ § 1, 1999)