



MEETING OF JULY 18, 2023

TO: Mayor Jordan and City Council

THRU: Susan Norton, Chief of Staff
Jonathan Curth, Development Services Director

FROM: Britin Bostick, Long Range Planning/Special Projects Manager

DATE:

SUBJECT: **Amend Fayetteville Code of Ordinances Chapter 33, Article X - Historic District Commission. Submitted by CITY OF FAYETTEVILLE STAFF. The request is an amendment to 33.226 Established, 33.227 Membership, 33.229 Powers And Duties, 33.231 Historic Districts, and 33.233 Work Not Requiring A Certificate of Appropriateness. The proposed code changes would update the state code reference, member qualifications, add historical markers, establish local historic districts, and clarify when a Certificate of Appropriateness is not required.**

RECOMMENDATION:

Long Range Planning staff and the Historic District Commission recommend approval of an amendment to the Fayetteville Code of Ordinances amending Chapter 33, Historic District Commission, to update the state code reference, member qualifications, add historical markers, establish local historic districts, and clarify when a Certificate of Appropriateness is not required.

BACKGROUND:

Per the National Park Service, the Certified Local Government Program was established "...to facilitate State and local government cooperation with Federal partners to promote nationwide preservation initiatives. Through the certification process, local communities make a commitment to national historic preservation standards. This commitment is key to America's ability to preserve, protect, and increase awareness of our unique cultural heritage found across the country."

Per the Arkansas Historic Preservation Program, "The Certified Local Government (CLG) program represents a partnership between the National Park Service (NPS), the Arkansas Historic Preservation Program (AHPP) and local governments (Arkansas cities and counties) to preserve historic resources at the local level. An Arkansas city or county is eligible to participate in the CLG program if it has appointed a Historic District Commission (HDC) and has passed a local preservation ordinance designating one or more local historic districts, according to applicable state law. 21 Arkansas cities currently participate in the Certified Local Government program."

Fayetteville became a CLG in 2008 with the adoption of the current Historic District Commission ordinance and with the establishment of the White Hanger at Drake Field as a local historic district. The City's program is reviewed every four years by AHPP staff, which includes reporting on historic preservation activity and a visit to an HDC meeting. Staff and Commissioner qualifications and training, participation with Federal Section 106

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project review, grant funded project management and completion, and other program aspects are reviewed for compliance with comments provided for improvements for better alignment with the CLG program standards. Municipal programs in good standing are eligible for CLG grants on an annual basis, and the City of Fayetteville's recent successful CLG grant applications include the citywide Heritage and Historic Preservation Plan (\$50,000) and a historic context statement for the University Heights and Haskell Heights neighborhoods (\$20,000).

After completing a review of Fayetteville's current historic preservation program and resources as part of the project to write the city's first Heritage and Historic Preservation Plan, the project consultant, Stantec, made the following observation on page 41 of the plan document: "The ordinance established the City's ability to form an HDC to administer the goals and purpose of the law. It also grants the City the ability to designate historic districts via a local ordinance and oversee alterations and demolitions to properties within locally designated districts. Aside from indicating that local historic districts should have "special historic community or architectural value," there is no designation criteria, nor is there an application process by which a member of the public or a group of individuals could seek designation." Additionally, Action Item 1.1 on page 80 of the plan reads: "Modify ordinance to include eligibility criteria and a process for establishing local historic districts." Item 1.2 on the same page reads: "Ensure HDC ordinance meets CLG criteria for expertise in architecture, urban planning/design, or history to the extent possible. Hire consultants or pro bono professionals to assist the HDC on an as-needed basis." The proposed amendments would accomplish these first two action items.

DISCUSSION:

The Historic District Commission began discussing changes to the ordinance in their meeting on February 9, 2023 in response to feedback from the Arkansas Historic Preservation Program as part of the Certified Local Government quadrennial review. Additionally, the Commission received draft recommendations from Stantec Consulting Services that the City should consider an update to the ordinance to create and/or clarify the path to create a local historic district. The Commissioners worked with staff through the next several meetings on proposed edits, considering state requirements for the establishment of local historic districts, ordinances in other cities in Arkansas with local historic districts, criteria for Historic District Commission members and program criteria for good standing with the Certified Local Government program, through which the City of Fayetteville applies for annual grant funding to support historic preservation work. Long Range Planning staff also received feedback on the proposed changes from the CLG Coordinator with AHPP to ensure that the changes would be aligned with the state program's expectations and criteria for good standing. Out of that feedback came the proposal to adjust the language for when a Certificate of Appropriateness is Not Required (this is only applicable to properties located within established local historic districts), so that only work facing a public right-of-way and not work visible from a public right-of-way requires the approval. The language for "visible from a public right-of-way" is often unclear and requires an interpretation of "visible", in contrast to "facing the public right-of-way", which is based on the orientation of the structure being altered.

The Commission made a final review of the proposed changes in their June 8, 2023 meeting and did not have any additional comments or edits. Commissioner Alex Lee made the motion to forward the amendments to the City Council with a second by Commissioner Hark Harper. The motion was approved 4-0-0. No public comment was received.

BUDGET/STAFF IMPACT:

N/A

ATTACHMENTS: HDC Ordinance SRF,
ARTICLE_X___HISTORIC_DISTRICT_COMMISSION_Strikethrough_Highlight,
ARTICLE_X___HISTORIC_DISTRICT_COMMISSION_Clean, 2023 AHPP CLG Review

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City of Fayetteville, Arkansas

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Legislation Text

File #: 2023-868

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AN ORDINANCE TO AMEND ARTICLE X HISTORIC DISTRICT COMMISSION IN §33 DEPARTMENTS, BOARDS, COMMISSIONS, AND AUTHORITIES OF THE FAYETTEVILLE CITY CODE

WHEREAS, the Historic District Commission began discussing changes to its governing regulations in February 2023 in response to feedback from the Arkansas Historic Preservation Program as part of a Certified Local Government review; and

WHEREAS, Stantec Consulting Services also recommended that the City should consider an update to the ordinance to clarify the path to create a local historic district;

WHEREAS, Historic District Commissioners and City staff recommend the approval of these amendments to the City Code.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby amends § 33.226 **Established** by replacing “Act Number 484 of 1963” with “Ark. Code Ann. § 14-172-201, *et seq.*”

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby amends § 33.227 **Membership** by adding the following language to the end of the section:

“Members should demonstrate an interest in historic preservation, possessing interest or expertise in architecture, landscape architecture, history, urban or regional planning, building rehabilitation, real estate, law, archeology, or conservation.”

Section 3: That the City Council of the City of Fayetteville, Arkansas hereby amends § 33.229 **Powers and Duties** by adding the following:

“Review and recommend historical markers to recognize important places and persons in Fayetteville’s

history.”

Section 4: That the City Council of the City of Fayetteville, Arkansas hereby enacts a new § 33.231 **Historic Districts** as follows:

“33.231 Historic Districts

(A) The City Council may establish historic districts pursuant to the provisions of Ark. Code Ann. § 14-172-201, et seq., as amended.

(B) District characteristics. The City Council and the HDC should consider the following characteristics when establishing an historic district to preserve areas of exemplary architectural, archaeological, cultural, or historic value:

- (1) Significance in history, architecture, archaeology, or culture;
- (2) Association with certain events that have made a significant contribution to the broad patterns of local, regional, state, or national history;
- (3) Association with the lives of significant persons in our past;
- (4) Embodying the distinctive characteristics of an architectural or engineering type, period, or method of construction;
- (5) Represents the work of a master designer, builder, or craftsman; or
- (6) Represents an established and familiar visual feature of the community.

(C) Relationship to zoning districts (overlay zone). The historic district regulations are intended to preserve and protect the historically or architecturally worthy buildings, structures, sites, monuments and neighborhoods of the historic area. In all zoning districts lying within the boundaries of the historic district, the regulations for both the zoning district and the historic district shall be applied. Whenever there is a conflict between the regulations of the zoning district and the regulations of the historic district overlay zone, the more restrictive shall apply.”

Section 5: That the City Council of the City of Fayetteville, Arkansas hereby rennumbers the sections following the new § 33.231 **Historic Districts** accordingly.

Section 6: That the City Council of the City of Fayetteville, Arkansas hereby repeals subsection (C) of § 33.233 **Work Not Requiring a Certificate of Appropriateness** (formerly § 33.232) and enacts a replacement (C) as follows:

“Facing the Public Right of Way. Work not facing any public right-of-way shall not require a Certificate of Appropriateness.”