



TOWN OF ELIZABETH

**TOWN OF ELIZABETH
Planning Commission Regular Meeting
Tuesday, July 05, 2022 at 6:30 PM
Town Hall, 151 S. Banner Street**

CALL TO ORDER

ROLL CALL

AGENDA CHANGES

UNSCHEDULED PUBLIC COMMENT

MINUTES

- [1.](#) Regular Minutes of May 3, 2022

NEW BUSINESS

2. Election of new Planning Commission Chairperson for 2022

PUBLIC HEARING

- [3.](#) Ordinance 22-07

NEW BUSINESS

4. Discussion and possible action of recommendation to Board of Trustees approval of Ordinance 22-07, an Ordinance Repealing and Reenacting Chapter 2 Article VIII and Chapter 16 Article XI of the Elizabeth Municipal Code
5. Discussion regarding Code Review Workshop
6. Discussion of new microphone training.

REPORTS

- [7.](#) Staff Report
8. Commissioner Reports

ADJOURNMENT



TOWN OF ELIZABETH

PLANNING COMMISSION

PLANNING COMMISSION – RECORD OF PROCEEDINGS MAY 3, 2022

CALL TO ORDER

The Regular Meeting of the Elizabeth Planning Commission was called to order on Tuesday, May 3, 2022, at 6:30 PM by Chair Nick Snively.

ROLL CALL

Present were Chair Nick Snively, Vice Chair Barbara McGinn, Commissioners Julie Uhernik, Rob Porter, and Ed Beard. Commissioner Jenny Case was not present. There was a quorum to conduct business.

Also present were Town Administrator Patrick Davidson, Community Development Director Pam Cherry, Planner/Project Manager Zach Higgins, and Town Clerk Michelle Oeser.

AGENDA CHANGES

No agenda changes from staff.

No agenda changes by the Commissioners.

PUBLIC COMMENT

No Public Comment.

MINUTES

Regular Minutes of April 5, 2022

Motion by Vice Chair McGinn, seconded by Commissioner Uhernik, to approve the minutes from April 5, 2022.

The vote of those Commissioners present was unanimously in favor. Motion carried.

Chair Snively open the Public Hearing at 6:34 pm.

PUBLIC HEARING

755 Crossroads Circle (Cleary) Site Plan

Chair Snively opened the public hearing to public comment. There was no public comment.

Chair Snively closed the public hearing at 6:58 pm.



TOWN OF ELIZABETH

PLANNING COMMISSION

NEW BUSINESS

Discussion and possible action of recommendation to Board of Trustees approval of 755 Crossroads Circle (Cleary) Site Plan

Motion by Vice Chair McGinn, seconded by Commissioner Uhernik, recommending the approval of 755 Crossroads Circle (Cleary) Site Plan.

The vote of those Commissioners present was unanimously in favor. Motion carried.

Discussion regarding Elizabeth 44 and THK Associates presentation

Representatives of THK Associates made a presentation on the Elizabeth 44 project.

Discussion to gain feedback regarding the Draft Historic Preservation Code update

Mr. Higgins presented a staff report on the status of the Historic Preservation Code update.

REPORTS

- Mr. Higgins had no additions to his staff report.
- No reports from the Planning Commission.

ADJOURNMENT

Motion by Commissioner McGinn, seconded by Commissioner Uhernik, to adjourn meeting at 8:06 PM. The vote of those Commissioners present was unanimously in favor. Motion carried.

Chair Nick Snively

Deputy Town Clerk Harmony Malakowski



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COMMUNITY DEVELOPMENT DEPARTMENT

TO: Planning Commission
FROM: Zach Higgins, AICP Planner/Project Manager
DATE: July 05, 2022
SUBJECT: Historic Preservation Code Update – Chapter 2 Article VIII and Chapter 16 Article XI

SUMMARY

The Historic Advisory Board and Staff have held two public meetings, one in February and one in April. The HAB also released a Historic Preservation Survey which was distributed digitally and physically, which received over 130 responses. With that feedback, the HAB has chosen to use the Basic version of the History Colorado Model Certified Local Government Preservation Ordinance to use as a base for an update to the Elizabeth Municipal Code.

The draft of the slightly modified ordinance was presented at the April 18th public meeting and received majority positive feedback. The draft ordinance also received majority positive feedback from the Main Street Board of Directors at their April 2022 meeting. The Historic Advisory Board has given formal recommendation of approval for the Elizabeth Municipal Code update for both Chapter 2 Article VIII and Chapter 16 Article XI to the Planning Commission and Board of Trustees at their June 20th meeting.

Approval of Ordinance 22-07 would amend all sections of Chapter 2 Article VIII and Chapter 16 Article XI of the Elizabeth Municipal Code regarding the Historic Advisory Board and Historic Preservation. Proposed amendments include but are not limited to those items listed below:

- 2-8-10 – Purpose. Additional and different language included that reflects what was provided from the History Colorado Model CLG Preservation Ordinance.
- 2-8-20 – Historic Advisory Board. Provides a percentage of preferred “professionals” with expertise in the fields listed. A Historian position has been added to the yearly elected Officers.
- The Town Registry Established section has been moved to Chapter 16 Article XI.
- The Designation of historic structures, sites and districts has been moved to Chapter 16 Article XI.
- The Procedures for designating historic structures, sites and districts for preservation has been moved to Chapter 16 Article XI.
- The Criteria for designation section has been moved to Chapter 16 Article XI.
- The Historic districts section has been moved to Chapter 16 Article XI.
- The Review alterations section has been moved to Chapter 16 Article XI.
- The Revocation of designation section has been moved to Chapter 16 Article XI.
- 16-11-10 General. The Purpose section has additional and different language included that reflects what was provided from the History Colorado Model CLG Preservation Ordinance.
- 16-11-10 General. A Definitions section was added for clarity within Chapter 16 Article XI as recommended by the Model Ordinance.

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COMMUNITY DEVELOPMENT DEPARTMENT

- 16-11-20 – Establishment of Town Register and Designation Criteria. Designation Criteria reflects current standard which was provided by the Model Ordinance.
- 16-11-30 – Designation Procedure. The nomination for listing in the Town’s Register was changed to remove nominations by REHAB “HAB” and added specific language for nominations by the owner of the property. Applications for a district nomination will not be seen as complete without at least 75% of the Property Owners within the district approval by signature.
- 16-11-30 – Designation Procedure. The Designation Hearing timeframe was amended to occurring within 45 days of application being determined complete versus 30 days after the filing of the application. Public notice requirements of 10 days before the public hearing and physical location posting requirements have been added.
- 16-11-30 – Designation Procedure. Provides an Appeals process and Revocation of Designation process.
- 16-11-40 – Alterations to Properties and Historic Districts on the Town’s Historic Register. A Certificate of Appropriateness issued by the HAB is established and required before carrying out new Construction, Alteration, Relocation, or Demolition involving the exterior of any Historic Property or Property within a Historic District. The Certificate of Appropriateness will be required before issuance of a Building Permit for the previous mentioned properties and work types. An Alteration Hearing is established as well as Review Criteria that vary from the CURRENT code’s criteria listed in 16-11-60 (3). A HAB Review process is established as well as an Appeals process.
- 16-11-50 – Relocation of Listed Properties. Establishes additional criteria specific to the relocation of listed properties that builds upon those requirements in section 16-11-40.
- 16-11-60 – Demolition of Listed Properties. Establishes additional criteria specific to the demolition of listed properties that builds upon those requirements established in section 16-11-40.
- 16-11-70 – Certificate of Economic Hardship. Establishes a Certificate of Economic Hardship, the criteria to obtain and review, as well as an appeal process.
- 16-11-80 – Maintenance. This section discusses the maintenance of listed properties and properties within historic districts explicitly. The Town makes mention of required maintenance within Town Limits regarding the adopted Building Code in Section 18-9, but Section 16-11-80 is specifically for Listed Properties and those within adopted Historic Districts.
- 16-11-90 – Unsafe or Dangerous Conditions Exempted. Allows for temporary measures to be taken to remediate dangerous or unsafe conditions without first obtaining a Certificate of Appropriateness.
- 16-11-100 – Enforcement and Penalties. Establishes enforcement and penalty requirements for non-compliance with those established requirements within this ordinance.
- 16-11-110 – Incentives. This section outlines that those Town designated Historic Property or Contributing Property within a Historic District would be eligible for restoration or rehabilitation incentives provided by the State of Colorado, as well as any additional incentives developed by the HAB or the Board of Trustees.

PROCESS**16-1-240. - Amendments to Chapter and Official Zoning Map.**

(c)(3) The Community Development Department will schedule a public hearing before the Planning

Commission according to the requirements of Subsection 16-4-30(b) of this Chapter.



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COMMUNITY DEVELOPMENT DEPARTMENT

(4) Planning Commission hearings: The Planning Commission shall conduct a public hearing for the purpose of providing a recommendation to the Board of Trustees on the amendment. The Planning Commission may take any action as outlined in this Chapter. The hearing schedule will depend on all development applications to be heard by the Planning Commission.

Public notice requirements were completed for this public hearing in accordance with Chapter 16, Article IV of the Town of Elizabeth municipal code.

POSSIBLE RECOMMENDATION

The proposed amendments to Chapter 2 Article VIII and Chapter 16 XI code provides for more clarification regarding Historic Preservation, as well as additional preservation techniques which may be utilized and enforced by the Historic Advisory Board and the Board of Trustees.

On June 20th, the Historic Advisory Board reviewed the proposed Code Update and voted unanimously to recommend to the Planning Commission and Board of Trustees approval of the Code Update.

The Planning Commission can make recommendation to the Board of Trustees as written, recommend approval with conditions, or recommend denial to the Board of Trustees. If the Planning Commission chooses to recommend, the recommendation would be; **recommendation to the Board of Trustees approval of Ordinance 22-07, an Ordinance Repealing and Reenacting Chapter 2 Article VIII and Chapter 16 Article XI of the Elizabeth Municipal Code Regarding Changes to the Town's Historic Advisory Board and Historic Preservation.**

ATTACHMENTS

Ordinance 22-07

Chapter 2 Article VIII and Chapter 16 Article XI (Current)

ORDINANCE 22-07

AN ORDINANCE REPEALING AND REENACTING CHAPTER 2 ARTICLE VIII AND CHAPTER 16 ARTICLE XI OF THE ELIZABETH MUNICIPAL CODE REGARDING CHANGES TO THE TOWN'S HISTORIC ADVISORY BOARD AND HISTORIC PRESERVATION

BE IT ORDAINED BY THE BOARD OF TRUSTEES FOR THE TOWN OF ELIZABETH, COLORADO, THAT:

Section 1. Chapter 2 Article VIII of the Elizabeth Municipal Code is hereby repealed and reenacted to read as follows:

Section 2-8-10. Purpose

1. Purpose. The purpose of the Historic Advisory Board (HAB) as referenced in this article is to enhance our community's local resources and to promote the public health, safety, and welfare through:
 - a. The protection and preservation of the Town's architecture, culture, and heritage as embodied in Historic Properties and Historic Districts, by appropriate regulations and incentives;
 - b. The enhancement of Property values and the stabilization of historic neighborhoods;
 - c. The establishment of the Town's Historic Register listing Historic Properties and Historic Districts;
 - d. The cultivation of civic pride in the art, architecture, and accomplishments of the past;
 - e. The encouragement of continued private ownership and utilization of such Historic Properties or Historic Districts now so owned and used;
 - f. The promotion of thoughtful community planning and design;
 - g. The maintenance and improvement of economic and financial benefits through the protection of attractions that bring tourists and visitors to the Town;
 - h. A reasonable balance between private property rights and the public interest in preserving the Town's unique historic character through the nomination of Buildings, Structures, Sites, Objects, and districts for preservation; and
 - i. The provision of educational opportunities to increase public appreciation of the Town's unique heritage.

Section 2-8-20. Historic Advisory Board

1. The Board of Trustees hereby creates the Historic Advisory Board which shall have the duties and responsibility established in this Chapter 2 Article VIII and Chapter 16 Article XI, and hereinafter referred to as the

“HAB.”

2. Composition
 - a. The HAB shall be composed of seven (7) voting members, all of whom have demonstrated interest in, competence with or knowledge of preservation.
 - b. It is preferred that at least 40% of the members shall be professionals or shall have extensive expertise in a preservation-related discipline, including but not limited to History, Architecture, Landscape Architecture, American Studies, American Civilization, Cultural Geography, Cultural Anthropology, Planning, or Archaeology.
3. Appointments and terms of office.
 - a. Members of the Historic Advisory Board shall be appointed by the Board of Trustees and shall serve three-year staggered terms from the date of the appointment.
 - b. Members may continue to serve until their successors have been appointed.
 - c. Appointments to fill the vacancies on the Historic Advisory Board shall be made by the Board of Trustees.
 - d. All members of the Historic Advisory Board shall serve without compensation except for such amounts determined appropriate, in advance, by the Board of Trustees to offset expenses incurred in the performance of their duties.
 - e. Members of the Historic Advisory Board may be removed by the Board of Trustees without cause being stated.
4. Officers. At the first regular meeting of each calendar year, the HAB shall, by majority vote, elect one (1) of its members to serve as chairperson to preside over the HAB’s meetings, one (1) member to serve as the vice-chairperson and one (1) member to serve as Historian. The members so designated shall serve in these capacities for terms of one (1) year.
5. Quorum and Voting. A quorum for the Historic Advisory Board to conduct business shall consist of at least a majority of its sitting members. A quorum is necessary for the Historic Advisory Board to conduct business including holding a public hearing. A roll call vote shall be taken upon the request of any member. A tie vote shall be deemed a denial of the motion or recommended action.
6. Compensation. All members of the HAB shall serve without compensation except for such amounts determined appropriate, in advance, by the Board of Trustees to offset expenses incurred in the performance of their duties.
7. Powers and Duties. The HAB shall:
 - a. Conduct surveys and create Inventories of Properties and areas for the purpose of defining those of Historic Significance.
 - b. Review and determine qualifications of Buildings, Structures, Objects, Sites, and Districts nominated for designation and recommend that the Board of Trustees designate by ordinance such Buildings, Structures, Objects, Sites, or Districts

- qualifying for such designation.
- c. Make recommendations to the Board of Trustees on Construction and Design Guidelines, consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties, for review of proposals to Alter, Relocate, or Demolish Historic Properties.
 - d. Review and make recommendations on any application for Alteration, Relocation, or Demolition of a Historic Property or Historic District or planning and design project that may affect the character or Integrity of the Historic Property or Historic District.
 - e. Participate in review of National Register of Historic Places nominations.
 - f. Advise Owners on historic preservation, rehabilitation, restoration, and reconstruction.
 - g. Develop and assist in public education programs on history, archaeology, and historic preservation.
 - h. Advise the Board of Trustees on matters related to preserving the historic character of the Town.
 - i. Participate in Federal Section 106 Review as requested by Board of Trustees or Staff.
 - j. Actively pursue financial assistance for preservation-related programs.
 - k. Draft and recommend for adoption by the Board of Trustees such by-laws, operating policies and other rules of procedure as the HAB may deem appropriate.
8. Meetings
- a. The HAB shall establish a regular meeting schedule with no less than four scheduled meetings per fiscal year.
 - b. Minutes shall be kept of all HAB proceedings.
 - c. All meetings of the HAB shall be open to the public.
9. Vacancies. Appointments to fill vacancies on the HAB shall be made by the Board of Trustees in the same manner as regular appointments.
10. Removal. Members of the HAB may be removed by the Board of Trustees without cause being stated.
11. Conduct of business.
- a. The Historic Advisory Board shall conduct its business in accordance with the Public Meetings Act, Public Records Act and other laws applicable to local public bodies. The Historic Advisory Board shall propose to the Board of Trustees bylaws as the Historic Advisory Board deems necessary.

Section 2. Chapter 16 Article XI of the Elizabeth Municipal Code is hereby repealed and reenacted to read as follows:

Section 16-11-10. General

2. Purpose. The purpose of this Article is to enhance our community's local resources and to promote the public health, safety, and welfare through:
 - a. The protection and preservation of the Town's architecture, culture, and heritage as embodied in Historic Properties and Historic Districts, by appropriate regulations and incentives;
 - b. The enhancement of Property values and the stabilization of historic neighborhoods;
 - c. The establishment of the Town's Historic Register listing Historic Properties and Historic Districts;
 - d. The cultivation of civic pride in the art, architecture, and accomplishments of the past;
 - e. The encouragement of continued private ownership and utilization of such Historic Properties or Historic Districts now so owned and used;
 - f. The promotion of thoughtful community planning and design;
 - g. The maintenance and improvement of economic and financial benefits through the protection of attractions that bring tourists and visitors to the Town; and
 - h. The provision of educational opportunities to increase public appreciation of the Town's unique heritage.

3. Definitions. For purposes of this ordinance, the following terms are to be defined as follows:
 - a. **Alteration or Alter** – Any act or process that changes one (1) or more of the exterior architectural or landscape features of a Historic Property or Historic District.
 - b. **Applicant** – Person or persons submitting nomination or Alteration paperwork.
 - c. **Board of Trustees** – The Board of Trustees of the Town of Elizabeth.
 - d. **Building** – A shelter or enclosure constructed for persons, animals, or chattels.
 - e. **Building Code** – The Town of Elizabeth Building Code, as amended.
 - f. **Building Official** – The officer or other designated authority charged with the administration and enforcement of the Building Code, or that person's authorized representative.

- g. **Certificate of Appropriateness** – The approval statement signed by the Historic Advisory Board which certifies the historical appropriateness of any proposed repair, restoration, Alteration, Construction, Relocation, or Demolition of a Historic Property or element within a Historic District pursuant to the historic preservation regulations within Chapter 2 – Article VIII Historic Advisory Board and Chapter 16 – Article XI Historic Preservation. The issuance of a Certificate of Appropriateness authorizes the issuance of a building permit (if required) for said request.
- h. **Certificate of Economic Hardship** – A certificate issued by the HAB authorizing the repair, restoration, Alteration, Construction, Relocation, or Demolition of a designated Building, Structure, Object, Site, or element within a designated Historic District in accordance with the provisions of Chapter 2 – Article VIII Historic Advisory Board and Chapter 16 – Article XI Historic Preservation, even though a Certificate of Appropriateness has previously been denied.
- i. **Town’s Historic Register** – The register established pursuant to **Section 16-11-20** of this Article.
- j. **Code** – The Town of Elizabeth Municipal Code as amended.
- k. **Colorado State Register of Historic Properties** – The official listing of state designated cultural resources.
- l. **Compatible** or **Compatibility** – Consistent or harmonious with location, design, setting, materials, workmanship, feeling, or association of an individual Building, Structure, Object, or Site or of surrounding Properties.
- m. **Construction** or **Construct** – Act of erecting an addition to an existing Building, Structure, or Object or the erection of a new principal or accessory Building, Structure, or Object on a lot or Property.
- n. **Contributing Property** – A Building, Structure, Site, or Object that reflects the historic or architectural character within a Historic District.
- o. **Demolition** or **Demolish** – Any act or process that destroys in part or in whole a Building, Structure, Object, or Site.
- p. **Design Guidelines** – Utilize reference document, Town of Elizabeth Design Review Standards & Guidelines, as the same may be amended from time to time.
- q. **Historic District**
 - i. A “Historic District” is a geographically definable area including a concentration, linkage, or continuity of Properties within a specified Period of Significance and may include within its geographic

boundaries one or more Contributing Properties, which has been designated by the Town Council pursuant to this ordinance as amended.

- ii. A Historic District is related by a pattern of either physical elements or social activities. Historic Significance is determined by applying eligibility and Integrity criteria to the pattern(s) and unifying element(s).
 - iii. Historic District boundaries will be defined by visual changes, historical documentation of different associations or patterns of development, or evidence of changes in Property type, density, or Integrity.
 - iv. Properties that do not contribute to the Historic Significance of the Historic District may be included within its boundaries.
- r. **Historic Property** – A Building, Structure, Site, or Object which is designated by the Board of Trustees to the Town’s Historic Register pursuant to Chapter 2 – Article VIII Historic Advisory Board and Chapter 16 – Article XI Historic Preservation.
 - s. **Infill** – Construction on vacant or under-used parcels within existing areas that are largely developed.
 - t. **Integrity** – The ability of a property to convey its Historic Significance through its physical features.
 - u. **Inventory** – Catalog of Buildings, Structures, Objects, and Sites within the Town, listed, eligible for listing, or non-eligible for listing in the Town’s Historic Register.
 - v. **Maintenance** – All activities necessary to prolong the useful life and aesthetic appearance of a Property.
 - w. **National Register of Historic Places** – The list of significant Buildings, Structures, Sites, Objects, or districts in American history, architecture, archaeology, engineering, or culture maintained by the U.S. Secretary of the Interior.
 - x. **Non-Contributing Property** - A Building, Structure, Object, or Site that does not reflect the historic or architectural character within a Historic District because of age or lack of Integrity.
 - y. **Object** - A material item of functional, aesthetic, cultural, historical, or scientific value that may be, by nature or design, movable yet related to a specific setting or environment.

- z. **Period of Significance** - Span of time during which significant events and activities occurred.
- aa. **Owner** – The person, corporation, government, or other legal entity who owns or who has any legal or equitable interest in Property and who is so listed as Owner on the records of the Elbert County Assessor's Office.
- bb. **Property** – A Building, Structure, Site, or Object.
- cc. **Relocation** or **Relocate** – Moving a Building, Structure, or Object to a different location, either temporarily or permanently.
- dd. **Secretary** – The secretary of the HAB.
- ee. **Secretary of the Interior's Standards for the Treatment of Historic Properties** – The preservation, rehabilitation, restoration, and reconstruction standards adopted by the U.S. Department of the Interior.
- ff. **Section 106 Review** – Process required of federal agencies under 54 U.S.C. 306108 to consult local governments and other parties in consideration of the effects of projects carried out, permitted, licensed, or funded by that agency on properties listed in the National Register of Historic Places.
- gg. **Site** – Location of a significant event; a prehistoric or historic occupation or activity; or a Building, Structure, or Object, whether standing or vanished, where the location itself maintains historic or archaeological value regardless of the value of any existing Building, Structure, or Object.
- hh. **Structure** – A Construction for purposes other than shelter for humans, animals, or chattel (such as a road, bridge, canal, or fence).
- ii. **Town** – The Town of Elizabeth, Colorado.

16-11-20. - **Establishment of Town Register and Designation Criteria**

1. The Board of Trustees hereby establishes the Town Register of historic sites.
 - a. Properties or districts shall be listed in the Town's Historic Register when such Property or district has been so designated.
 - b. All Properties listed in the Colorado State Register of Historic Properties and the National Register of Historic Places are eligible for the Town's Historic Register but are not designated until approval as stated in this Code.
2. Eligibility Criteria
 - a. Properties or districts shall be at least fifty years old and meet one or more of the following criteria in order to be considered for designation:

- i. Association with events that have made a significant contribution to history;
- ii. Connection with persons significant in history;
- iii. Distinctive characteristics of a type, period, method of Construction, or artisan;
- iv. Geographic importance; and/or
- v. Possibility to yield important information related to prehistory or history.

3. Integrity Criteria

All Properties and districts shall be evaluated for their physical Integrity using the following criteria:

- a. Location
- b. Design
- c. Setting
- d. Materials
- e. Workmanship
- f. Association (with prominent historical person or purpose)

16-11-30. - Designation Procedure

1. Nomination and Application
 - a. Applications shall be submitted to the Town Clerk for consideration on a form provided by the Historic Advisory Board.
 - b. The applicant shall pay all public notice expenses, recording fees and any other fees established by resolution of the Board of Trustees.
 - c. A nomination for listing in the Town's Historic Register may be made:
 - i. By the Owner or Owners of the Property or Properties to be designated; or
 - ii. By any current resident of the Town.
 - d. 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 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 30 days of receipt of nomination.

- e. Applications determined incomplete shall be returned to the Applicant within 30 days with a request for additional information.
- f. Applications for a district nomination shall not be complete UNLESS 75% of the Property Owners within the proposed district approve the nomination by signature.

2. Designation Hearing

- a. Within 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.
 - i. 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 10 days prior to the hearing.
 - ii. 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 10 days prior to the hearing.
 - iii. The notice shall be posted at the Property's physical location at least 10 days prior to the hearing.
- b. HAB may continue the hearing and request additional information from the applicant so long as the continued hearing date is within 30 days or as expressly agreed to by the Applicant.
- c. Transcripts of the hearings are not required; however, the HAB's records shall include the name and address of each speaker; the organization or person the speaker represents, if any; whether or not the speaker is an Owner or holder of some interest in the Property or district nominated for designation, or represents such Owner or holder; and a summary of the relevant portions of each statement. Written reports and presentations shall be incorporated into the record of the hearing.

3. HAB Review

- a. 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.

- b. 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.
4. Board of Trustees Proceedings
 - a. Within 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, Subsections 2(a)-(c)**, except the Town Clerk shall perform the responsibilities assigned therein to the Secretary.
 - b. The Board of Trustees shall review the application for conformance with this ordinance as amended.
 - c. 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.
 - d. 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 Planning Director, the Building Official, and any other person who has requested in writing to receive the same.
5. Recording of Designation. Within 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.
6. Records. The Town shall maintain a current record of all Historic Properties and Historic Districts and pending designations.
7. 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 year from the effective date of the final action on the denied application.
8. Appeals
 - a. 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 30 days of the Board of Trustees decision.
9. Revocation of Designation
 - a. 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**.

- b. 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.

16-11-40. - Alterations to Properties and Historic Districts on the Town's Historic Register

1. Requirements

- a. 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). Such Owner(s) must first submit the proposed work to the HAB under this Section to obtain a Certificate of Appropriateness, as well as apply for any other permits required by Code.
- b. 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.
- c. 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.

2. Application

- a. 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.
- b. 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 30 days of submittal.

3. Alteration Hearing. Within 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, Subsections 2(a)-(c)**.
4. Review Criteria
 - a. 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.
 - b. For Non-Contributing Properties within a Historic District:
 - i. Compatibility with the Property's current design, materials, features, size, scale and proportion, and massing; or
 - ii. Compatibility with the Historic District's design, materials, features, size, scale and proportion, and massing.
 - c. 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.
5. HAB Review
 - a. 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.
 - b. 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 Planning Director, the Building Official, and any other person who has requested in writing to receive the same within 30 days. If approved with conditions, such conditions shall be stated in writing in the Certificate of Appropriateness.
 - c. If the HAB denies the application, the HAB shall notify, in writing, the Applicant, the Planning Director, the Building Official, and any other person who has requested in writing to receive the same within 30 days of such denial. Such denial shall state the reasons for the denial and the procedures for appeal to the Board of Trustees.
 - d. HAB may continue the hearing and request additional information from the applicant so long as the continued hearing date is within 30 days or as expressly agreed to by the Applicant.

- e. 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.
- f. 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 year from the date of the final action upon the earlier application.

6. Appeals

- a. 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 15 days after receipt of the HAB's denial.
- b. Within 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.
- c. Notice of the Board of Trustees consideration of the appeal and hearing shall be provided in accordance with **Section 16-11-30, Subsections 2(a)-(c)**, except the Town Clerk shall perform the responsibilities of the Secretary.
- d. The Board of Trustees shall review the appeal for a clear error made in the application of the applicable code criteria.
- e. If the Board of Trustees affirms the HAB's denial of the application, then the applicant may apply for a certificate of economic hardship.

16-11-50. - Relocation of Listed Properties

1. General

- a. In addition to the criteria and procedures in **Section 16-11-40**, the HAB will use the criteria of this Section in considering applications for Relocating a Historic Property or Contributing Property in a Historic District within or outside of a designated Site or Historic District or Relocating a Property onto a designated Site or Historic District.
- b. Applicants for Relocation shall provide:
 - i. A professionally prepared estimate of costs of continued Maintenance of the Property in its current condition, of rehabilitation on site, and of Relocation and rehabilitation;
 - ii. An engineer's or architect's report as to structural soundness;
 - iii. A professionally prepared estimate of the Property's market value in its current location and current condition, of the market value of the

Property rehabbed on its current site, and of the site after Relocation of the Property; and

- iv. Professionally prepared site plan and construction documents for the current site.

2. Review Criteria

- a. For consideration of the original Property and site, the HAB will review for the following criteria:
 - i. The Property cannot be preserved, restored, rehabbed or reused on its current site to provide for any reasonable, beneficial use of the Property regardless of any proposed development plan for the Property's site or adjacent Properties;
 - ii. And
 1. Whether a structural report submitted by a licensed structural engineer adequately demonstrates the soundness of the Building, Structure, or Object proposed for Relocation;
 2. If the Property can be Relocated without significant damage to its physical Integrity; and
 3. Whether plans are specifically defined for the site to be vacated, and have been determined to meet all other Town codes and ordinances.
- b. For consideration of the new location, the HAB will review for compliance with all of the following criteria:
 - i. Whether the Building, Structure, or Object is Compatible with its proposed site and adjacent Properties; and if the receiving site is Compatible in nature with the Building, Structure, or Object proposed to be moved;
 - ii. The Building, Structure, or Object's architectural Integrity and its consistency with the character of the neighborhood of the receiving site;
 - iii. Whether the Relocation of the Building, Structure, or Object will diminish the Integrity or character of the neighborhood of the receiving site; and
 - iv. If a Relocation plan has been submitted and approved by the Town, including posting a bond, to ensure the safe Relocation, preservation, and repair (if required) of the Property and site preparation and infrastructure connections as described in the Code.

16-11-60. - Demolition of Listed Properties

1. General
 - a. In addition to the criteria and procedures in **Section 16-11-40**, the HAB will use the criteria of this Section in considering applications for Demolition of Historic Properties and Contributing Properties in a Historic District.
 - b. Applicants for Demolition shall provide:
 - i. A professionally prepared estimate of costs of continued Maintenance of the Property in its current condition, of rehabilitation, and of Demolition;
 - ii. An engineer's or architect's report as to structural soundness; and
 - iii. Professionally prepared estimates of the Property's market value in its current condition, as rehabbed and after Demolition.
 - c. If a Demolition approval is granted on any basis other than that of an imminent hazard or economic hardship (See **Section 16-11-70**), a Certificate of Appropriateness will not be issued until a replacement/reuse plan for the Property has been approved by the Town.
2. Review Criteria for Total Demolition. Applicants requesting a Certificate of Appropriateness for total Demolition must provide data to clearly demonstrate all of the following criteria:
 - a. The Property proposed for Demolition is not structurally sound, despite evidence of the Owner's efforts to properly maintain said Building, Structure, or Object;
 - b. The Property cannot be preserved, restored, rehabbed, or reused on site to provide for any reasonable, beneficial use of the Property regardless of any proposed development plan for the Property's site or adjacent Properties;
 - c. The Property cannot be practically moved to another site in the Town; and
 - d. The Applicant demonstrates that the proposal mitigates, to the greatest extent practical, all the following:
 - i. Any impacts that occur to the visual character of the neighborhood where Demolition is proposed to occur;
 - ii. Any impact on the Historic Significance of the Buildings, Structures, or Objects located on the Property and adjacent Properties;

- iii. Any impact to the Integrity of Buildings, Structures, or Objects located on the Property and adjacent Properties; and
 - iv. Any impact to archaeological deposits or ruins or the potential to access such resources and whether information can be recovered as part of the Demolition process.
3. Review Criteria for Partial Demolition. Applicants requesting a Certificate of Appropriateness for partial Demolition must provide data to clearly demonstrate all of the following criteria:
- a. The partial Demolition is required for the preservation, restoration, or rehabilitation of the Property; and
 - b. The Applicant demonstrates that the proposal mitigates to the greatest extent practical, all the following:
 - i. Any impact on the Historic Significance of the Buildings, Structures, or Objects located on the Property and adjacent Properties; and
 - ii. Any impact on the Integrity of the Buildings, Structures, or Objects located on the Property and adjacent Properties.

16-11-70. - Certificate of Economic Hardship

- 1. General
 - a. If an application for a Certificate of Appropriateness is denied, and an appeal of such denial has occurred, the Applicant may request an exemption from such certificate requirement pursuant to this Section.
 - b. A request for exemption in the form of a Certificate of Economic Hardship shall be initiated by the Owner(s). Such application for a Certificate of Economic Hardship shall be submitted to the Town for consideration on a form provided by the HAB. The Applicant shall have the burden of proof to establish hardship.
 - c. The HAB may request additional information from the Applicant as necessary to make informed decisions according to the applicable criteria for decision-making.
 - d. When the Town determines the application for Certificate of Hardship is complete, the Town shall promptly refer the application to the Historic Advisory Board.
 - e. A Certificate of Economic Hardship is granted only to the specific Owner and are not transferable.
- 2. Criteria for Certificate of Economic Hardship

- a. Economic Hardship. The following factors, evidence, and testimony are to be provided by the applicant and considered by the HAB:
 - i. The structural soundness of any Buildings or Structures on the Property and their potential for rehabilitation.
 - ii. The economic feasibility of rehabilitation or reuse of the existing Property in the case of a proposed Demolition.
 - iii. For investment or income producing Properties, the ability to obtain a reasonable rate of return on the Property in its present condition, or in a rehabbed condition pursuant to the requirements of this ordinance as amended.
 - iv. For non-income producing Properties consisting of owner-occupied single-family dwellings and/or non-income producing institutional Properties not solely operating for profit, the ability to maintain or to convert the Property to a reasonable residential or institutional use in its present condition or in a rehabbed condition pursuant to the requirements of this ordinance as amended or the ability to transfer the Property for a reasonable rate of return.
 - v. The consideration for economic hardship shall not include any of the following:
 1. Willful or negligent acts by the Owner;
 2. Purchase of the Property for substantially more than its market value;
 3. Failure to perform normal Maintenance and repairs;
 4. Failure to diligently solicit and retain tenants;
 5. Failure to prescribe a rental amount which is reasonable; or
 6. Failure to provide normal tenant improvements.
- b. Undue Hardship. An Applicant requesting an exemption based on undue hardship must show that the application of the criteria creates a situation that is substantially inadequate to meet the Applicant's needs because of specific health and/or safety issues.

3. Decision

- a. If the HAB deems the criteria of this Section are met, the HAB shall, at a public meeting, issue an order of exemption and send a Certificate of Economic Hardship to the Town within 30 days.

- b. If the HAB deems the criteria of this Section are not met, the HAB shall, at a public meeting, deny the exemption request and notify, in writing, the Town and the Applicant within 30 days of such denial. Such denial shall state the reasons for the denial and the procedures for appeal to the Board of Trustees.
 - c. The HAB may issue an order continuing the Certificate of Economic Hardship process for a period not to exceed 90 days from the date of the application if the HAB would like additional information necessary to make a decision.
 - d. The Applicant may resubmit an amended application, reapply for a Certificate of Economic Hardship that takes into consideration the recommendations of the HAB, or appeal the denial to the Board of Trustees.
 - e. If an application for a Certificate of Economic Hardship is denied, no person may submit a subsequent application within one year for the same from the date of the final action upon the earlier application.
4. Appeal for Denial of a Certificate of Economic Hardship
- a. If a Certificate of Economic Hardship is denied by the HAB the Applicant may appeal the denial to the Board of Trustees by filing a written notice with the Town within 15 days of the date of the receipt of the HAB's denial.
 - b. Notice of the Board of Trustees consideration of the appeal and hearing shall be provided in accordance with **Section 16-11-30, Subsections 2(a)-(c)**, except the Town Clerk shall perform the responsibilities of the Secretary.
 - c. The Board of Trustees shall review the appeal for a clear error made in the application of the applicable code criteria.
 - d. 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 30 days of the Board of Trustees decision.

16-11-80. - Maintenance

1. The Board of Trustees intends to preserve from deliberate or inadvertent neglect the exterior portions of Historic Properties or Historic Districts whose Maintenance is necessary to prevent deterioration of any exterior portion. No Owner, lessee, or occupant of any Historic Property or Contributing Property within a Historic District shall fail to prevent significant deterioration of the exterior of the Building, Structure, Object, or special feature beyond the condition of such Historic Property or Contributing Property within a Historic District on the effective date of the designating ordinance.

2. No Owner, lessee, or occupant of any Historic Property or Contributing Property within a Historic District shall fail to comply with all applicable provisions of this ordinance as amended and other ordinances of the Town regulating Maintenance.
3. Before the Town's attorney files a complaint in municipal court for failure to maintain the Historic Property or Contributing Property within a Historic District, the Town shall notify the Owner, lessee or occupant of the need to repair, maintain, or restore such Property; shall assist the Owner, lessee, or occupant in determining how to preserve such Property; and shall give the Owner, lessee, or occupant a reasonable time to perform such work.

16-11-90. - Unsafe or Dangerous Conditions Exempted

Nothing in this ordinance shall be construed to prevent any measures of Construction, Alteration, removal, or Demolition necessary to correct the unsafe or dangerous condition of any Property, other feature, or parts thereof where such condition is declared unsafe or dangerous by the Town and where the proposed measures have been declared necessary by the Town to correct the condition, as long as only such work that is absolutely necessary to correct the condition is performed. Any temporary measures may be taken without first obtaining a Certificate of Appropriateness under this ordinance, but a certificate is required for permanent Construction, Alteration, removal, or Demolition.

16-11-100. - Enforcement and Penalties

1. No person shall violate or permit to be violated any of the requirements of this ordinance or the terms of a certificate issued pursuant to this ordinance as amended.
2. Violations of this ordinance are punishable as provided in the Code and may be subject to the following additional penalties:
 - a. If any Historic Property or Property within a Historic District is reconstructed, Altered, added to, Relocated, or Demolished in violation of this ordinance the Board of Trustees may order any such Property to be returned to its condition prior to such unlawful Construction, reconstruction, exterior Alteration, addition, Relocation, or Demolition. This may specifically include ordering the reconstruction of a property that was Demolished to replicate as closely as possible the original Property.
 - b. If any Building, Structure, or Object is erected or Constructed on a Historic Property or Property within a Historic District, the Board of Trustees may order any such Building, Structure, or Object to be removed or deconstructed.

- c. Alterations to a Historic Property or Historic District without an approved Certificate of Appropriateness will result in a one-year moratorium on all building permits for the subject Property.
- d. Relocating or Demolishing a Historic Property or Property within a Historic District without an approved Certificate of Appropriateness will result in a one-year moratorium on all relocation, Demolition, or building permits for such Property and/or its original location.

16-11-110. - Incentives

- 1. Any Owner of a Historic Property or Contributing Property within a Historic District under **Section 16-11-20** may be eligible for economic incentives for the restoration or rehabilitation of that Property as provided by the State of Colorado and such additional incentives as may be developed by the HAB or the Board of Trustees.
- 2. The HAB, at a public meeting, shall make the determination for each request regarding economic incentives.

Section 3. Severability. If any section, paragraph, clause, or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or enforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance, the intent being that the same are severable.

Section 4. The Board of Trustees hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the Town, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Board of Trustees further determines that the Ordinance bears a rational relation to the proper legislative object sought to be attained.

Section 5. This Ordinance shall become effective thirty (30) days after publication.

Read and approved at a meeting of the Board of Trustees of the Town of Elizabeth, Colorado, this _____ day of _____, 2022.

Passed by a vote of _____ for and _____ against and ordered published.

Megan Vasquez, Mayor

ATTEST

Michelle M. Oeser, Town Clerk

Footnotes:

--- (2) ---

Editor's note— Ord. 15-04, § 1, adopted Apr. 14, 2015, amended Art. VIII in its entirety to read as herein set out. Former Art. VIII, §§ 2-8-10—2-8-80, pertained to similar subject matter, and derived from: Prior code 15-1.2; Ord. 00-14 § 1; and Ord. 02-14 § 1.

Sec. 2-8-10. - Purpose.

The purpose of this Article is to enhance the Town's local resources and to promote the public interest in historic preservation through:

- (1) The protection and preservation of the Town's architectural, historic and cultural heritage, as embodied in designated historic structures, sites and districts, by appropriate regulations and incentives;
- (2) The establishment of a Town Register listing designated structures, sites and districts; and
- (3) The provision of educational opportunities to increase public appreciation of the Town of Elizabeth's unique heritage.

(Ord. 15-04, § 1, 4-14-2015)

Sec. 2-8-20. - Created.

The Board of Trustees hereby creates the Historic Advisory Board which shall have principal responsibility for matters of historic preservation.

(Ord. 15-04, § 1, 4-14-2015)

Sec. 2-8-30. - Membership.

The Historic Advisory Board shall consist of seven (7) members providing a balanced, community-wide representation. Persons who have an interest and knowledge of local history and culture are especially encouraged to apply.

(Ord. 15-04, § 1, 4-14-2015)

Sec. 2-8-40. - Appointments and terms of office.

Members of the Historic Advisory Board shall be appointed by the Board of Trustees and shall serve three-year staggered terms from the date of the appointment. Members may continue to serve until their successors have been appointed. Appointments to fill the vacancies on the Historic Advisory Board shall be made by the Board of Trustees. All members of the Historic Advisory Board shall serve without compensation except for such amounts determined appropriate, in advance, by the Board of Trustees to offset expenses incurred in the performance of their duties. Members of the Historic Advisory Board may be removed by the Board of Trustees without cause being stated.

(Ord. 15-04, § 1, 4-14-2015)

Sec. 2-8-50. - Quorum and voting.

A quorum for the Historic Advisory Board to conduct business shall consist of at least a majority of its sitting members. A quorum is necessary for the Historic Advisory Board to conduct business including holding a public hearing. A roll call vote shall be taken upon the request of any member. A tie vote shall be deemed a denial of the motion or recommended action.

(Ord. 15-04, § 1, 4-14-2015; Ord. No. 17-02, §1, 1-10-2017)

Sec. 2-8-60. - Officers.

At the first regular meeting of each calendar year, the Historic Advisory Board shall, by majority vote, elect one (1) of its members to serve as Chairperson to preside over the meetings and one (1) member to serve as Vice Chairperson. The members so designated shall serve in these capacities for terms of one (1) year.

(Ord. 15-04, § 1, 4-14-2015)

Sec. 2-8-70. - Meetings.

The Historic Advisory Board shall establish a regular meeting schedule. Minutes shall be kept of all proceedings.

(Ord. 15-04, § 1, 4-14-2015)

Sec. 2-8-80. - Powers and duties.

The Historic Advisory Board shall, after solicitation of public comment and at a properly noticed public meeting:

- (1) Recommend eligibility criteria for the designation of historic resources and for review of proposals to alter designated resources;
- (2) Review and determine qualifications of properties nominated for designation as either an historic structure, site or district and recommend to the Board of Trustees approval or denial of a designation;
- (3) Upon a property owner's request, review and make recommendations to the owner on proposed alterations to a designated historic structure, site or district;
- (4) Advise and assist owners of historic properties on physical and financial aspects of preservation, renovation, rehabilitation and reuse, including nomination to the Town Register, the State Register and the National Register of Historic Places;
- (5) Develop and assist in public education programs including, but not limited to, walking tours, brochures, a marker program for historic properties, lectures, exhibits and conferences;
- (6) Conduct surveys of historic sites, properties and areas for the purpose of defining those of historic significance, and prioritizing the importance of identified historic areas; the Historic Advisory Board may create a list of structures of historical or archaeological merit which have not been designated;
- (7) Advise the Board of Trustees on matters related to preserving the historic character and substance of the Town and recommend easements, covenants, licenses and other methods which would implement the completion of purposes of this Article; and
- (8) Actively pursue financial assistance for preservation-related programs.

(Ord. 15-04, § 1, 4-14-2015)

Sec. 2-8-90. - Conduct of business.

The Historic Advisory Board shall conduct its business in accordance with the Public Meetings Act, Public Records Act and other laws applicable to local public bodies. The Historic Advisory Board shall propose to the Board of Trustees bylaws as the Historic Advisory Board deems necessary.

(Ord. 15-04, § 1, 4-14-2015)

Sec. 2-8-100. - Town Registry established.

The Board of Trustees establishes the Town Register of historic sites. Structures or districts may be listed on the register only if the site, structure or district has been designated by the Board of Trustees following recommendation by the Historic Advisory Board. All properties listed on the National or State Register are eligible for the Town Register but are not designated until approval, pursuant to this Section, is obtained.

(Ord. 15-04, § 1, 4-14-2015)

Sec. 2-8-110. - Designation of historic structures, sites and districts.

Consistent with the process set forth in [Section 2-8-120](#) below, the Town may:

- (1) Designate as historic an individual structure, site or other feature or an integrated group of structures and features on a single lot or site having a special historical or architectural value.
- (2) Designate as an historic district an area containing a number of structures or sites having a special historical or architectural value.
- (3) Each such designation shall include a description of the characteristics of the structure, site or historic district which justify its designation and a description of the particular features that should be preserved, and shall include a legal description of the location and boundaries of the historic structure, site or district. The property included in any such designation shall be subject to the provisions set forth in this Section.
- (4) No individual structure or site will be designated without the consent of all owners of record and the provisions of this Section.
- (5) The purpose and effect of designation is:
 - a. To assist local groups interested in preservation of physical structures, sites or districts, and to recognize locally significant structures, sites or districts;

- b. To provide a mechanism to educate the public on local history, development of the community, architectural styles, and housing business development;
- c. To enable the owners of the property in the Town to take advantage of historic preservation programs and opportunities; and
- d. To make all properties listed on the Town Registry eligible for such incentive programs as may be developed.

(Ord. 15-04, § 1, 4-14-2015)

Sec. 2-8-120. - Procedures for designating historic structures, sites and districts for preservation.

A nomination for designation listing in the Town Register may be made by the Historic Advisory Board or by any citizen by filing an application with the Community Development Department. Where nominated by the Historic Advisory Board, the Community Development Department and at least one (1) member of the Historic Advisory Board shall contact the owner or owners of such historic resources or historic district, either in person or in writing, outlining the reasons and effects of designation as a historic resource and, if possible, shall secure the consent of the owner or owners to such designation before the nomination is accepted as complete for review. The applicant shall pay all public notice expenses, recording fees and any other fees established by resolution of the Board of Trustees.

(1) Historic Advisory Board Review.

- a. Once it has been determined that the application for historical designation is complete, and the requirement for public hearing has been met, the Community Development Director shall forward the request to the Historic Advisory Board to be placed on the agenda for the next regularly-scheduled meeting. The hearing on the requested designation will occur not more than ninety (90) days from the date of determination that the application is complete.
- b. The Historic Advisory Board shall review the application for conformance with the established criteria for designation and with the purposes of this Section.
- c. Within ten (10) days after the conclusion of the public meeting, but in no event more than thirty (30) days after the meeting, unless mutually agreed by the Historic Advisory Board, the applicant and the owner or owners other than the applicant, the Historic Advisory Board shall recommend either approval, modification and approval or disapproval of the application. The Historic Advisory Board may recommend approval conditioned upon the execution of certain easements, covenants or licenses.
- d. If the Historic Advisory Board recommends approval of an application, the Historic Advisory Board shall forward the application with a copy of its report and findings of approval to Board of Trustees, including any requirements as to easements, covenants or licenses that must be met by the property owner to receive and/or maintain the designation. The Historic Advisory Board shall also notify the Board of Trustees within thirty (30) days of any decision disapproving a designation.

(2) Board of Trustees review.

- a. The Board of Trustees shall hold a public hearing to consider adopting by ordinance those properties qualifying for historic designation no more than thirty (30) days after receipt of the Historic Advisory Board's recommendation.
- b. The Board of Trustees shall review the application for conformance with the established criteria for designation and with the purpose of this Section.

(3) Owner notification. When a structure, site or historic district has been designated as provided herein, the Community Development Department shall promptly notify the record owners of the property, according to the Elbert County Assessor's records or other available information, and record the designation with the Office of the Elbert County Clerk and Recorder.

(4) Limitation on resubmission and reconsideration of proposed designation. Whenever the Historic Advisory Board or the Board of Trustees disapproves 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.

(Ord. 15-04, § 1, 4-14-2015)

Sec. 2-8-130. - Criteria for designation.

The Historic Advisory Board and Board of Trustees will consider the following criteria in reviewing nominations of properties for designation:

- (1) Structures. Structures must be at least fifty (50) years old and meet one (1) or more of the following criteria for architectural, cultural or geographic/environmental significance. A structure can be exempted from the age standard if the Board of Trustees finds it to be exceptionally important in other criteria.
- (2) Architectural, cultural or geographic/ environmental criteria. Historic structures or sites shall meet one (1) or more of the following criteria in order to be considered for designation:

- a. Architectural:
 - i. Exemplifies specific elements of an architectural style or period;
 - ii. Is an example of the work of an architect or builder who is recognized for expertise nationally, state-wide, regionally or locally;
 - iii. Demonstrates superior craftsmanship or high artistic value;
 - iv. Represents an innovation in construction, materials or design;
 - v. Represents a built environment of a group of people in an era of history;
 - vi. Exhibits a pattern or grouping of elements representing at least one (1) of the above criteria; or
 - vii. Is a significant historic remodel.
 - b. Cultural:
 - i. Is a site that of historic event that had an effect upon society;
 - ii. Exemplifies cultural, political, economic or ethnic heritage of the Town; or
 - iii. Is associated with a notable person or the work of a notable person.
 - c. Geographic/environmental:
 - i. Enhances the sense of identity of the Town; or
 - ii. Is an established and familiar natural setting or visual feature of the Town.
- (3) Prehistoric and historic archaeological structures or sites. Prehistoric and historic archaeological structures or sites shall meet one (1) or more of the following:
- a. Architectural:
 - i. Exhibits distinctive characteristics of a type, period or manner of construction; or
 - ii. Is a unique example of structure.
 - b. Cultural:
 - i. Has the potential to make an important contribution to the knowledge of the area's history or prehistory;
 - ii. Is associated with an important event in the area's development;
 - iii. Is associated with a notable person(s) or the work of a notable person(s);
 - iv. Is a typical example or is associated with a particular ethnic or other community group; or
 - v. Is a unique example of an event in local history.
 - c. Geographic/environmental:
 - i. Is geographically or regionally important.
- (4) General criteria. Each property will also be evaluated based on physical integrity using the following criteria (a property need not meet all the following criteria):
- a. Shows character, interest or value as part of the development, heritage or cultural characteristics of the community, region, state or nation;
 - b. Retains original design features, materials and/or character;
 - c. Is in the original location or same historic context if it has been moved;
 - d. Has been accurately reconstructed or restored.

(Ord. 15-04, § 1, 4-14-2015)

Sec. 2-8-140. - Historic districts.

- (a) For the purposes of this Section, a district is a geographically definable area including a concentration, linkage or continuity of sites, buildings, structures and/or objects. A district is related by a pattern of either physical elements or social activities.
- (b) Significance is determined by applying criteria to the pattern(s) and unifying element(s).
- (c) Nominations will not be approved unless the application contains written approval from owners of at least seventy (70) percent of the properties within the district boundaries.
- (d) Properties that do not contribute to the significance of the historic district may be included within the boundaries as long as the noncontributing elements do not noticeably detract from the district's sense of time, place and historical development. Noncontributing elements will be evaluated for their magnitude of impact by considering their size, scale, design, location, and/or information poten

- (e) District boundaries will be defined by visual changes, historical documentation of different associations or patterns of development, changes in site type or site density as established through testing or survey.
- (f) When districts are designated, applicable design guidelines and other appropriate restrictions may be included as part of the designation.
- (g) In addition to meeting at least one (1) of the criteria outlined in Section 2-8-130 of this Section, the designated contributing sites and structures within the district must be at least fifty (50) years old. The district could be exempt from the age standard if the resources are found to be exceptionally important in other significant criteria.
- (h) Historic districts shall also meet one (1) or more of the following:
- (1) Architectural:
 - a. Exemplifies specific elements of an architectural style or period;
 - b. Is an example of the work of an architect or builder who is recognized for expertise nationally, state-wide, regionally or locally;
 - c. Demonstrates superior craftsmanship or high artistic value;
 - d. Represents an innovation in construction, materials or design;
 - e. Represents a built environment of a group of people in an era of history;
 - f. Exhibits a pattern or grouping of elements representing at least one of the above criteria; or
 - g. Is a significant historic remodel.
 - (2) Cultural:
 - a. Is the site of an historic event that had an effect on society;
 - b. Exemplifies cultural, political, economic or social heritage of the community; or
 - c. Is associated with a notable person(s) or the work of a notable person(s).
 - (3) Geographic/environmental:
 - a. Enhances sense of identity of the community; or
 - b. Is an established and familiar natural setting or visual feature of the community.
 - (4) Archaeology/subsurface:
 - a. Has the potential to make an important contribution to the area's history or prehistory;
 - b. Is associated with an important event in the area's development;
 - c. Is associated with a notable person(s) or the work of a notable person(s);
 - d. Has distinctive characteristics of a type, period or manner of construction;
 - e. Is of geographical importance.

(Ord. 15-04, § 1, 4-14-2015)

Sec. 2-8-150. - Review of alterations.

Before making any alterations to the exterior of structures or resources designated as historic, the owner of such building/structure or other historic resource shall submit an application to the Historic Advisory Board describing the project, including any plans or specifications. The Historic Advisory Board shall determine if the alteration is compatible with the designation. Property owners making alterations or constructing new buildings adjacent to registered building, landmarks, or districts are requested to consult with the Historic Advisory Board prior to beginning construction. For this Section, the term "alteration" shall mean any proposed modification to a designated historic site, structure or district, which could have an effect on the character of the historic resources relative to the criteria by which it was designated. Examples of alterations for structures may include additions, any exterior modifications, including signage to be affixed to the facade, and any interior modifications that may affect the characteristics for which the structure was designated.

- (1) Criteria to review alterations. In reviewing a proposed alteration, the Historic Advisory Board shall consider the project in terms such as design, finish, material, scale, mass and height. When the subject site is in an historic district, the Historic Advisory Board must also find that the proposed development is visually compatible with the development on adjacent properties, as well as any guidelines adopted as part of the given historic district designation. For this Section, the term "compatible" shall mean consistent with, harmonious with and/or enhances the mixture of complementary architectural styles either of the architecture of an individual structure or the character of the surrounding structures. The Historic Advisory Board will use the following criteria to determine compatibility of a proposed alteration:
 - a. The effect upon the general historical and architectural character of the structure and property;
 - b. The architectural style, arrangement, texture and material used on the existing and proposed structures and their relation a

compatibility with other structures;

- c. The size of the structure, its setbacks, its site, location and the appropriateness thereof, when compared to existing structure and the site;
 - d. The compatibility of accessory structures and fences with the main structure on the site, and with other structures;
 - e. The effects of the proposed work in creating, changing, destroying, or otherwise impacting the exterior architectural features of the structure upon which such work is done;
 - f. The condition of existing improvements and whether they are a hazard to public health and safety;
 - g. The effects of the proposed work upon the protection, enhancement, perpetuation and use of the property; or
 - h. The ability to comply with the Secretary of the Interior's Standards for Rehabilitation.
- (2) It is the intent of the alteration review criteria process to encourage work on any of the structures or properties designated as historic to be in keeping with the spirit and intent of this Article; however, the Historic Advisory Board shall only have the power to review and make suggestions as appropriate to maintain compliance with the criteria found in Subsection 2-8-150(1). Compliance with the review process by the applicant shall be mandatory for any structures or resources designated as historic. Compliance with the review criteria for structures or resources designated as historic prior to the adoption of said ordinance shall be voluntary. Notwithstanding, any alterations to historic resources that are made which are not in keeping with the review criteria may be subject to revocation of designation.

(Ord. 15-04, § 1, 4-14-2015)

Sec. 2-8-160. - Revocation of designation.

If a building or special feature on a designated site has been altered in such a way so as to negate the features necessary to retain designation, the owner may apply to the Historic Advisory Board for a revocation of the designation or the Board shall recommend revocation of the designation to the Board of Trustees in the absence of the owner's application to do so.

(Ord. 15-04, § 1, 4-14-2015)

Sec. 16-11-10. - Purpose.

The purpose of this Article is to enhance our community's local resources and to promote the public health, safety, prosperity and welfare through:

- (1) The protection and preservation of the Town's architectural, historic and cultural heritage, as embodied in designated historic structures, sites and districts, by appropriate regulations and incentives;
- (2) The establishment of a Town Register listing designated structures, sites and districts; and
- (3) The provision of educational opportunities to increase public appreciation of Elizabeth's unique heritage.

(Prior code 15-1.1)

Sec. 16-11-20. - Town Registry established.

The Board of Trustees hereby establishes the Town Register of Historic Places. Sites, structures or districts may be listed on said register only if said site, structure or district has been designated by the Board of Trustees following recommendation by REHAB. All properties listed on the National or State Register are eligible for the Town Register but are not designated until approval, pursuant to this Article, is obtained.

(Prior code 15-1.3)

Sec. 16-11-30. - Designation of historic structures, sites and districts.

(a) Pursuant of the procedures set forth in this Article, the Board of Trustees may, by resolution:

- (1) Designate as historic an individual structure, site or other feature or an integrated group of structures and features on a single lot or site having a special historical or architectural value; or
- (2) Designate as an historic district an area containing a number of structures or sites having a special historical or architectural value.

(b) Each such designation shall include a description of the characteristics of the structure, site or historic district which justify its designation and a description of the particular features that should be preserved, and shall include a legal description of the location and boundaries of the historic structure, site or district.

(c) No individual structure or site will be designated without the consent of all owners of record, historic districts may be designated in accordance with the provisions in this Section. The purpose and effect of designation is:

- (1) To assist local groups interested in preservation of physical structures, sites or districts, and to recognize locally significant structures, sites or districts;
- (2) To provide a mechanism to educate the public on local history, development of the community, architectural styles and housing and business development;
- (3) To enable the owners of the property in the Town to take advantage of historic preservation programs and opportunities; and
- (4) To make all properties listed on the Town Registry eligible for such incentive programs as may be developed.

(Prior code 15-1.4)

Sec. 16-11-40. - Procedures for designating historic structures, sites and districts for preservation.

(a) A nomination for designation listing in the Town Register may be made by REHAB or by any citizen by filing an application with the Town Clerk. The fee charged shall be sufficient to cover the costs of publication, notice, recording costs, administrative costs and other charges incurred in the course of processing the application. The application fee shall be established or amended by resolution of the Board of Trustees.

(b) REHAB review.

- (1) REHAB shall hold a public meeting on the designation application no more than thirty (30) days after the filing of the application.
- (2) REHAB shall review the application for conformance with the established criteria for designation and with the purposes of this Section.
- (3) Within ten (10) days after the conclusion of the public meeting, but in no event more than thirty (30) days after the meeting, unless mutually agreed by REHAB, the applicant and the owner or owners (if other than the applicant), REHAB shall recommend either approval, modification and approval or disapproval of the application. REHAB may recommend approval conditional upon the

execution of certain easements, covenants or licenses.

- (4) REHAB shall forward to the Board of Trustees in writing any recommendation concerning a designation and further state any recommendations as to easements, covenants or licenses that must be met by the property owner to receive and/or maintain the designation.
- (c) Board of Trustees review.
- (1) The Board of Trustees shall hold a public hearing on the designation application no more than thirty (30) days after receipt of REHAB's recommendation.
- (2) The Board of Trustees shall review the application for conformance with the established criteria for designation and with the purpose of this Section.
- (d) When a structure, site or historic district has been designated as provided herein, the Town Clerk shall promptly notify the record owners of the property, according to the County Assessor's records or other available information, and record the designation with the County Clerk and Recorder.
- (e) Limitation on resubmission and reconsideration of proposed designation. Whenever the Board of Trustees disapproves 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.

(Prior code 15-1.5)

Sec. 16-11-50. - Criteria for designation.

REHAB and the Board of Trustees will consider the following criteria in reviewing nominations of properties for designation.

- (1) Structures: Structures must be at least fifty (50) years old and meet one (1) or more of the criteria for architectural, cultural or geographic/environmental significance. A structure can be exempted from the age standard if REHAB and the Board of Trustees find it to be exceptionally important in other criteria.
- a. Historic structures or sites shall meet one (1) or more of the following in order to be considered for designation.
1. Architectural: Exemplifies specific elements of an architectural style or period; is an example of the work of an architect or builder who is recognized for expertise nationally, statewide, regionally or locally; demonstrates superior craftsmanship or high artistic value; represents an innovation in construction, materials or design; represents a built environment of a group of people in an era of history; exhibits a pattern or grouping of elements representing at least one (1) of the above criteria; or is a significant historic remodel.
 2. Cultural: Is the site of a historic event that had an effect upon society; exemplifies cultural, political, economic or ethnic heritage of the Town; or is associated with a notable person or the work of a notable person.
 3. Geographic/environmental: Enhances the sense of identity of the Town; or is an established and familiar natural setting or visual feature of the Town.
- b. Prehistoric and historic archaeological structures or sites shall meet one (1) or more of the following:
1. Architectural: Exhibits distinctive characteristics of a type, period or manner of construction; or is a unique example of a structure.
 2. Cultural: Has the potential to make an important contribution to the knowledge of the area's history or prehistory; is associated with an important event in the area's development; is associated with a notable person or the work of a notable person; is a typical example or is associated with a particular ethnic or other community group; or is a unique example of an event in local history.
 3. Geographic/environmental: Is geographically or regionally important.
- c. Each property will also be evaluated based on physical integrity using the following criteria (a property need not meet all the following criteria):
1. Shows character, interest or value as part of the development, heritage or cultural characteristics of the community, region, state or nation.
 2. Retains original design features, materials and/or character;
 3. Is in the original location or same historic context if it has been moved;
 4. Has been accurately reconstructed or restored.

(2) Historic districts:

- a. For the purposes of this Section, a district is a geographically definable area including a concentration, linkage or continuity of sites, buildings, structures and/or objects. A district is related by a pattern of either physical elements or social activities.
- b. Significance is determined by applying criteria to the pattern and unifying element.
- c. Nominations will not be approved unless the application contains written approval from owners of one hundred percent (100%) of the properties within the district boundaries.
- d. Properties that do not contribute to the significance of the historic district may be included within the boundaries as long as the noncontributing elements do not noticeably detract from the district's sense of time, place and historical development. Noncontributing elements will be evaluated for their magnitude of impact by considering their size, scale, design, location and/or information potential.
- e. District boundaries will be defined by visual changes, historical documentation of different associations or patterns of development or evidence of changes in site type or site density as established through testing or survey.
- f. When districts are designated, applicable design guidelines and other appropriate restrictions may be included as part of the designation.
- g. In addition to meeting at least one (1) of the criteria as outlined in Subparagraph h. below, the designated contributing sites and structures within the district must be at least fifty (50) years old. The district could be exempt from the age standard if the resources are found to be exceptionally important in other significant criteria.
- h. Historic districts shall meet one (1) or more of the following:
 1. Architectural: Exemplifies specific elements of an architectural style or period; is an example of the work of an architect or builder who is recognized for expertise nationally, statewide, regionally or locally; demonstrates superior craftsmanship or high artistic value; represents an innovation in construction, materials or design; represents a built environment of a group of people in an era of history; exhibits a pattern or grouping of elements representing at least one (1) of the above criteria; or is a significant historic remodel.
 2. Cultural: Is the site of a historic event that had an effect on society; exemplifies cultural, political, economic or social heritage of the community; or is associated with a notable person or the work of a notable person;
 3. Geographic/environmental: Enhances sense of identity of the community; or is an established and familiar natural setting or visual feature of the community.
 4. Archaeology/subsurface: Has the potential to make an important contribution to the area's history or prehistory; is associated with an important event in the area's development; is associated with a notable person or the work of a notable person; has distinctive characteristics of a type, period or manner of construction; is of geographical importance; is a typical example/association with a particular ethnic group; is a unique example of an event or structure.

(Prior code 15-1.6)

Sec. 16-11-60. - Review of alterations.

The owner of a designated historic property is required (nondesignated historic property owners are requested) to consult with REHAB before making any alteration. REHAB shall determine if the alteration is compatible with the designation.

- (1) For the purposes of this Section, the term *alteration* shall mean any proposed modification to a designated historic site, structure or district which could have an affect on the character of the historic resources relative to the criteria by which it was designated. Examples of alterations for structures may include additions, any exterior modifications, including signage to be affixed to the facade, and any interior modifications that may affect the characteristics for which the structure was designated.
- (2) Criteria to review alterations: In reviewing a proposed alteration, REHAB shall consider the project in terms such as design, finish, material, scale, mass and height. When the subject site is in an historic district, REHAB must also find that the proposed development is visually compatible with the development on adjacent properties, as well as any guidelines adopted as part of the given Historic District designation. For the purposes of this Section, the term *compatible* shall mean consistent with harmonious with and/or enhances the mixture of complementary architectural styles either of the architecture of an individual structure or the character of the surrounding structures.
- (3) REHAB will use the following criteria to determine compatibility of a proposed alteration:
 - a. The effect upon the general historical and architectural character of the structure and property;

- b. The architectural style, arrangement, texture and material used on the existing and proposed structures and their relation to other structures;
- c. The size of the structure, its setbacks, its site, location and the appropriateness thereof, when compared to existing structure and the site;
- d. The compatibility of accessory structures and fences with the main structure on the site, and with other structures;
- e. The effects of the proposed work in creating, changing, destroying or otherwise impacting the exterior architectural features of the structure upon which such work is done;
- f. The condition of existing improvements and whether they are a hazard to public health and safety; or
- g. The effects of the proposed work upon the protection, enhancement, perpetuation and use of the property.

(Prior code 15-1.7)

Sec. 16-11-70. - Exemptions.

The applicant may request an exemption from the provisions of this Article. The applicant must provide adequate documentation and/or testimony to establish qualification for one (1) of the listed exemptions. The data provided by the applicant must be substantiated by either professionals in the applicable field, or by thorough documentation of how the information was obtained. REHAB may request additional information from the applicant as necessary to make informed decisions.

- (1) Economic hardship exemption: Exemptions are granted only to the specific owner and use and are not transferable.
 - a. For investment or income-producing properties: The owner's inability to obtain a reasonable rate of return in its present condition or if rehabilitated.
 - b. For non-income-producing properties consisting of owner occupied single-family dwellings and/or non-income-producing institutional properties not solely operating for profit: The owner's inability to convert the property to institutional use in its present condition or if rehabilitated.
 - c. The consideration for economic hardship shall not include willful or negligent acts by the owner, purchase of the property for substantially more than the market value, failure to perform normal maintenance and repairs, failure to diligently solicit and retain tenants or failure to provide normal tenant improvements.
- (2) Undue hardship: An applicant requesting an exemption based on undue hardship must show that the application of the criteria create a situation substantially inadequate to meet the applicant's needs because of specific health and/or safety issues.

(Prior code 15-1.8)

Sec. 16-11-80. - Revocation of designation.

If a building or special feature on a designated site has been altered in such a way so as to negate the features necessary to retain designation, the owner may apply to REHAB for a revocation of the designation or REHAB shall recommend revocation of the designation to the Board of Trustees in the absence of the owner's application to do so.

(Prior code 15-1.9)



TOWN OF ELIZABETH

COMMUNITY DEVELOPMENT DEPARTMENT

TO: Planning Commission
FROM: Zach Higgins, AICP Planner/Project Manager
DATE: July 05, 2022
SUBJECT: Staff reports

- Greg Lindbloom has been appointed to the Planning Commission through 12/31/2025.
- An open workshop was held before the Board of Trustees meeting on 06/28/2022 to discuss Elizabeth Municipal Code items that may require further review or update.
- The Site Plan for the Cleary Building has been approved by the Board of Trustees.