



Legislation Details (With Text)

File #: PC 19-082 **Version:** 1 **Name:** 1st Reading of Ordinance 19-1009 Code Amendment Champtr 17.40 HRB Procedures

Type: Land Use Item **Status:** Public Hearing

File created: 8/8/2019 **In control:** City Commission

On agenda: 8/21/2019 **Final action:**

Title: First Reading of Ordinance No. 19-1009, Amending the Oregon City Municipal Code Chapter 17.40 Historic Overlay District

Sponsors: Laura Terway

Indexes:

Code sections:

Attachments: 1. Staff Report, 2. Ordinance No. 19-1009, 3. Exhibit A. Revised Code Amendments 17.40.060 and 17.04.815, 4. Exhibit B. Staff Report and Recommendation, 5. Exhibit B. Public Comment, 6. Memo to City Commission, 7. Maps of Areas Affected, 8. Historic Review Board Policies Webpage Link, 9. Oregon State Historic Preservation Office (SHPO) Comments, 10. Exhibit - James Nicita

Date	Ver.	Action By	Action	Result
8/21/2019	1	City Commission	adopt	Fail
8/7/2019	1	City Commission	continue to a date certain	

First Reading of Ordinance No. 19-1009, Amending the Oregon City Municipal Code Chapter 17.40 Historic Overlay District

RECOMMENDED ACTION (Motion):

Staff recommends approval of the first reading of Ordinance No. 19-1009, code amendment to Chapter 17.40 (GLUA-19-00022).

BACKGROUND:

The proposed amendments have been revised to reflect direction from the City Commission to require Commission approval by resolution of any future changes to Historic Review Board (HRB) policies. A clarification to the definition of "New Construction" in Oregon City Municipal Code (OCMC) 17.04.815 has also been added in response to a public comment.

The proposal is for an amendment to the Oregon City Municipal Code. OCMC Chapter 17.40, Historic Overlay, contains provisions for Historic Review for development within these areas-. Section 17.40.060 requires HRB review where exterior alterations to historic sites or new construction is proposed. Depending on the extent of the activity proposed, this section provides for discretionary review by the HRB subject to the design guidelines or, for certain less intensive or impactful activities, for staff review through an "administrative approval." The problem is that the label "administrative approval" referenced in OCMC 17.40.060.D does not track with the fairly elaborate notice and hearing procedures provided by code, set out in OCMC 17.40.060.K, including requirements for mailed and published notice, and a requirement that a hearing be held within 45 days if a demand for such is made. These notice and hearing requirements are different from the standard notice and hearing procedures provided in the City Code under OCMC 17.50 and in state law that is applicable to all other types of land use review.

Providing this notice and hearing opportunity could be explained by the fact that previous policies were discretionary i.e. determining whether a fence or window was appropriate required the exercise of policy judgment given the language of the policies. Therefore, providing some procedural protections made sense. However, the recently adopted policies are clear and objective; i.e. they are quantifiable standards that do not require any interpretative judgment. As a result, it makes no sense to retain these notice and hearing procedures both because they do not track with the City's established procedures and because they are unnecessary. This code amendment would strike section 17.40.060.K, and would clarify the language in the remaining subsection. No criteria is proposed to change; this amendment only addresses the procedures for adoption of HRB policies and for review of work that meets the Historic Review Board (HRB) policies.

HRB Policies were first established in 1986 to give staff the ability to approve alterations to historic resources. The policies are meant to provide clear direction to historic property owners on exterior changes including but not limited to roofing, siding, windows and doors, foundations, fences, porches, gutters, and accessory structures.

The proposed code amendment clarifies the following:

1. Work that meets the HRB policies may be approved administratively (by staff) rather than by the Historic Review Board
2. The Historic Review Board may recommend new or revised policies with adoption by resolution by the City Commission.

It is important to note that either staff or the applicant may refer a proposal to the HRB if it does not meet the HRB policies. The HRB has the discretion to determine whether the proposal meets the design guidelines for alterations. HRB decisions are appealable to the City Commission and then to LUBA.

The proposed amendments are attached as Exhibit A.

The Planning Commission voted unanimously to recommended approval of this amendment to the City Commission on July 22, 2019.