



CITY OF SOUTH PORTLAND

CLAUDE V. Z. MORGAN
Mayor

SCOTT T. MORELLI
City Manager

EMILY F. SCULLY
City Clerk

SALLY J. DAGGETT
Jensen Baird Gardner & Henry

District One
CLAUDE V.Z. MORGAN

District Two
KATHERINE W. LEWIS

District Three
MISHA C. PRIDE

District Four
APRIL L. CARICCHIO

District Five
DEQA A. DHALAC

At Large
MAXINE R. BEECHER

At Large
SUSAN J. HENDERSON

**IN CITY COUNCIL
ORDINANCE #02-19/20**

THE COUNCIL of the City of South Portland hereby ordains that Chapter 2, "ADMINISTRATION AND LEGISLATION", Chapter 5, "BUILDINGS, and Chapter 24, "SUBDIVISIONS" of the "Code of Ordinances of the City of South Portland, Maine" be and hereby are amended as follows (additions are underlined; deletions are ~~struck out~~); and

**CHAPTER 2
ADMINISTRATION AND LEGISLATION**

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ARTICLE III. BOARDS AND COMMISSIONS

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DIVISION 9. ARTS & HISTORIC PRESERVATION COMMITTEE

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Sec. 2-141. Definitions.

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South Portland Inventory of Archaeological and Historic Resources. A list adopted, and amended from time to time, by the City Council pursuant to Sec. 2-145A of the Code of Ordinances, which formally recognizes those archaeological and historic resources that contain special significance in the history of the City, the State of Maine, and/or the United States of America.

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Sec. 2-142. Composition; appointment; qualifications; and quorum.

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(c) All members of the AHPC shall be selected upon the basis of their interest in art, historic preservation and familiarity with the City of South Portland. Individuals with professional experience in historic preservation, art, architecture, or construction are strongly encouraged. The City Council should strive to include members representative of a diverse community.

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Sec. 2-144. Duties generally.

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(p) Determining whether proposed historic rehabilitation work is in accordance with the Secretary of the Interior's Standards for the Rehabilitation of Historic Buildings;

(pg) Carrying out such other duties as may be required or established by the City Manager and/or City Council; and

(qr) Development of a proposed set of incentives in support of the above.

Sec. 2-145A. South Portland Inventory of Archaeological and Historic Resources.

(a) The AHPC shall initially prepare a proposed South Portland Inventory of Archaeological and Historic Resources ("Inventory") as defined by this ordinance for review and approval by the City Council. Once adopted by the City Council by Council Order, said Inventory shall be filed with the City Clerk and it shall thereby be incorporated herein and made a part of this ordinance by reference. The AHPC shall periodically recommend updates to the Inventory to the City Council to include or remove any archaeological or historic resources that have either been identified or demolished. The City Council may amend the Inventory by Council Order, and any amended Inventory shall be filed with the City Clerk.

(b) The initial Inventory proposed by the AHPC shall be based on Appendix J of the City's Comprehensive Plan Update adopted October 15, 2012 and those properties listed on the National Register of Historic Places.

(c) In order for a building, structure, site, or object to be added to the Inventory, one or more of the following criteria shall be met, as determined by the City Council after positive recommendation for inclusion from the AHPC:

- (1) It is associated with events that have made a significant contribution to history;
- (2) It is associated with the lives of significant persons in history;
- (3) It embodies the distinctive characteristics of a type, period, or method of construction, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- (4) It has yielded, or may be likely to yield, information important in prehistory or history.

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**CHAPTER 5
BUILDINGS**

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ARTICLE II. ADMINISTRATION AND ENFORCEMENT

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DIVISION 3. PERMIT DELAY

Sec. 5-65. Purpose.

The purpose of this Division 3 is to encourage preservation and protection of archaeological and historic resources that contribute to the City's architectural, cultural, or social history and development patterns and to limit the detrimental effect on community character and heritage that may result from the alteration or demolition of such resources. This Division sets forth the procedures to promote awareness and appreciation of South Portland's history; encourage sustainable reuse of historic resources; preserve sensitive archaeological resources; and encourage voluntary efforts to increase public information about, interaction with, or access to, historic resources.

Sec. 5-66. Definitions.

For the purposes of this Division, the following terms shall be defined as follows:

Archaeological resource. A site with established or potential value as a location of prehistoric or historic archaeological significance as recognized by the City Council and contained in the South Portland Inventory of Archaeological and Historic Resources.

Historic resource. A building, structure, site, or object with established historic significance as recognized by the City Council and contained in the South Portland Inventory of Archaeological and Historic Resources.

South Portland Inventory of Archaeological and Historic Resources. A list adopted, and amended from time to time, by the City Council pursuant to Sec. 2-145A of the Code of Ordinances, which formally recognizes those archaeological and historic resources that contain special significance in the history of the City, the State of Maine, and/or the United States of America.

Sec. 5-67. Applicability.

This Division shall apply to any building permit application for exterior work or demolition permit application for a building or structure built on or before December 31, 1940

or for a property listed on the South Portland Inventory of Archaeological and Historic Resources, except that this Division shall not apply to (1) a building or structure that the Building Inspector has determined represents an imminent hazard to the public health, safety, or welfare, which hazard cannot be abated by reasonable measures; or (2) a property that has received a previous determination by the South Portland Historical Society that it does not contain an archaeological or historic resource.

- (a) Permits associated with Planning Board Applications. If a proposed building permit or demolition permit is associated with a project for which a Planning Board application is either pending or will be submitted within one year of the demolition permit issuance date, such building or demolition permit for the project may not be issued without approval of the project application by the Planning Board that specifically addresses Sec. 27-1426(m) of the Code of Ordinances. If this procedure is not followed and an application for a Planning Board approval is submitted after such building or demolition permit is issued, the Planning Board application shall not be acted on by City staff for one year following the issuance of such permit.
- (b) Permits not associated with Planning Board Applications. The Building Inspector shall delay the issuance of a building permit or demolition permit in accordance with Sec. 5-68 below.

Sec. 5-68. Delay Requirements.

If a building or demolition permit is subject to a delay requirement pursuant to Sec. 5-67 or Sec. 27-134 of the Code of Ordinances, the Building Inspector shall delay the issuance of the permit for up to ninety (90) days from receipt of the application. During this delay period, the Building Inspector shall not issue any permits for the subject property until the expiration of the delay period. Unless the application has been withdrawn by the owner/applicant, the Building Inspector shall proceed to act on any pending permit application at the expiration of the delay period. The Building Inspector may waive or reduce the duration of the delay, following consultation with the South Portland Historical Society ("SPHS") and/or Arts & Historic Preservation Committee ("AHPC"), if the applicant can demonstrate to the Building Inspector that a significant financial hardship would be incurred by the owner/applicant if the delay transpired. The following procedures shall occur during the delay period:

- (a) Archaeological or historic resource. The Building Inspector or his/her designee shall provide a copy of the permit application to the AHPC within five (5) days of receipt of the application. The AHPC shall review the application to determine whether the proposed work is in accordance with the Secretary of the Interior's Standards for the Rehabilitation of Historic Buildings and to provide the owner/applicant with a written summary of comments regarding the application. The AHPC may waive any demolition permit fee and/or reduce the building permit fee to not less than 50% of the applicable building permit fee if the proposed work is determined by the AHPC to be generally in accordance with the Secretary of the Interior's Standards for the Rehabilitation of Historic Buildings.

(b) Non-archaeological or non-historic resource.

(1) Within five (5) days of receipt of an application, the Building Inspector or his/her designee shall forward a copy of the application to the SPHS.

(2) Within twenty-one (21) days of receipt of an application, the SPHS may provide the Building Inspector and the owner/applicant with a determination listing the reason(s) that the building or structure should or should not be considered for designation as a historic resource.

a. If the SPHS determines that the building or structure should be considered for designation, the Building Inspector or his/her designee shall provide a copy of the permit application to the AHPC within five (5) days of receipt of the SPHS' determination for consideration under Sec. 2-145A of the Code of Ordinances. The AHPC shall promptly review the building or structure for possible addition to the South Portland Inventory of Archaeological and Historic Resources and forward any recommendations for inclusion on the Inventory to the City Council for action. If the City Council acts to add the building or structure to the Inventory during the delay period, then the AHPC shall promptly undertake review pursuant to Sec. 5-68(a) above. If the AHPC does not recommend inclusion on the Inventory or if the City Council fails to act on any AHPC recommendation for inclusion during the delay period, then the Building Inspector shall proceed to act on any pending permit application at the expiration of the delay period.

b. If the SPHS determines that the building or structure should not be considered for designation, the Building Inspector shall promptly proceed to act on any pending permit application.

(c) Failure of the Building Inspector to provide a copy of the permit application to the AHPC and/or SPHS as provided herein does not alter the delay requirement, but the Building Inspector shall proceed to act on any pending permit application at the expiration of the delay period or 90 days after receipt of the application, whichever is earlier.

During the delay period, the owner/applicant shall give due consideration to all possible alternatives to excavation, demolition or non-rehabilitation building or structural work, including preservation, restoration, rehabilitation, or relocation. In addition, the owner/applicant shall allow the Planning Department, SPHS, and/or AHPC reasonable access to the site, including the interior and exterior areas of the building or structure, to enable review and consideration of the building, structure or site and its archeological or historic features.

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**CHAPTER 24
SUBDIVISIONS**

ARTICLE I. IN GENERAL

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Sec. 24-3. Definitions.

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Archaeological resource. A site with established or potential value as a location of prehistoric or historic archaeological significance as ~~identified~~recognized by the ~~City's Comprehensive Plan or a list of local archeological resources adopted by the City Council~~ City Council and contained in the South Portland Inventory of Archaeological and Historic Resources.

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Historic resource. A building, structure, ~~or site, or object~~ with established historic significance as ~~identified~~recognized by the ~~City's Comprehensive Plan or a list of local historic resources adopted by the City Council~~ City Council and contained in the South Portland Inventory of Archaeological and Historic Resources.

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Fiscal Note: Less than \$1,000.00

Dated: July 2, 2019