

ORDINANCE O-21-03

AN ORDINANCE AMENDING ZONING CODE ARTICLE 5, SECTION 5.3 HP (HISTORIC PRESERVATION) OVERLAY ZONE BY ADDING TO SUBSECTION 5.3.2(B)(1) TO ESTABLISH THE RIGHT TO REBUILD, UTILIZING THE SETBACKS OF A DEMOLISHED OR BURNT STRUCTURE ON THE SAME PARCEL IN THE BISBEE HISTORIC DISTRICT.

WHEREAS, the City of Bisbee Zoning Code serves to secure the social, physical, and economic advantages of the citizens of Bisbee; and

WHEREAS, the Planning and Zoning Commission of the City of Bisbee develop and recommend ordinances to the City Council for carrying out plans, goals, and objectives related to growth, development, and redevelopment of the City; and

WHEREAS, in order to preserve the unique beauty of the City, we encourage growth and re-development, the Planning and Zoning Commission approved the recommendation of a proposed amendment to Zoning Code, Article 5, Section 5.3.2 by adding to Subsection 5.3.2(B)(1) which would establish the right to rebuild, utilizing the setbacks of a demolished or burnt structure on the same parcel in the Bisbee Historic District set for in Exhibit A, hereto; and

WHEREAS, it is in the best interests of the City of Bisbee and its citizens to adopt the amendment to Zoning Code, Article 5, Section 5.3.2 by adding to Subsection 5.3.2(B)(1), as set forth on Exhibit A, hereto.

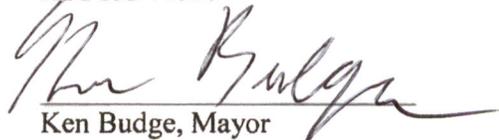
NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF BISBEE, COUNTY OF COCHISE, STATE OF ARIZONA, THAT:

Section 1. The amendment to Zoning Code Article 5, Section 5.3.2, which adds to Subsection 5.3.2(B)(1), as set forth in the attached Exhibit A, incorporated herein by reference, is hereby adopted.

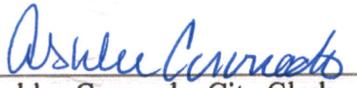
Section 2. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions.

PASSED, APPROVED AND ADOPTED by the Mayor and Council of the City of Bisbee on this 16th day of February, 2021.

APPROVED:


Ken Budge, Mayor

ATTEST:



Ashlee Coronado, City Clerk

APPROVED AS TO FORM:



Joseph Estes, City Attorney

EXHIBIT A
AMENDMENT TO ZONING CODE ARTICLE 5, SECTION 5.3.2

5.3 HP (Historic Preservation) Overlay Zone

5.3.1 Purpose

The Historic Preservation Overlay Zone or Historic District is intended to protect, preserve and enhance the City's character, historical significance and distinctive architecture. This zone enhances the City's general health, safety and welfare. The Historic Preservation Overlay Zone is superimposed over other zones. Land use zoning designations are defined in Section 5.2, but the general regulations on lot area, width, depth, building height and setbacks do not apply within this District. The particular regulations for the Historic District are specified within the Special Provisions for the Historic District.

5.3.2 Special Provisions for the Historic District

A. Building Heights.

1. The maximum building height and size for a new or renovated commercial structure or multiple family residential structure shall be determined by the Design Review Board, based upon the heights and sizes of the surrounding properties and the public interest in maintaining compatible mass and scale within this District; the public interest in maintaining the public views of the District and surrounding mountainsides that could be impacted by a particular structure; and the public's overall interest in maintaining the compatible characteristics of the commercial areas within the District.

The maximum building height for a new single family residential structure shall be twenty-three (23) feet, provided that the Design Review Board has the authority to increase or decrease this height limit by up to six (6) feet if the Board makes a specific finding that any such adjustment is consistent with the public interest in maintaining compatible mass and scale in the District; preserving the public views of the District and surrounding areas; and protecting the public interest in maintaining the compatible characteristics of the particular area, including the protection of access to air and light for adjacent properties.

1. The maximum building height of an existing single family residential structure that is subject to remodeling, renovation or an addition shall be not more than the height of the existing structure or the height of a new single family residential structure, whichever is greater. If the standard for new structures is applicable, the Design Review Board may adjust this height in the same manner and based upon the same factors as are applicable to a new structure.
2. The maximum building height of a new, remodeled, or renovated accessory building shall not typically be more than nineteen (19) feet. The Design Review Board may increase this height for an appropriate accessory use that is subordinate in size and scope to the primary structure, that is compatible in mass and scale with the structures in the immediate area of the District, and that is not inconsistent with the other public interests expressed in paragraph 2 above. In no event shall the height of an accessory structure be greater than twenty- nine (29) feet. The Design Review Board may also require a reduction in the proposed height below nineteen (19) feet, where such adjustment is warranted by these same factors. Any such adjustment, either up or down, shall require a specific finding by the Board explaining the reasons for any such adjustment.
3. Each of these heights shall be measured along a vertical line from the lowest point of the grade abutting the building to a perpendicular line extended from the highest gross elevation of the structure.
4. In the event that an applicant who is seeking to obtain approval for any increase in the maximum height of a structure may fail to provide sufficient information to allow the Design Review Board to make the required determinations, the Board, at its discretion, may table the application and require the applicant to provide additional information, in form of graphic design information or other means, which will provide a more complete depiction of the potential impacts of any such project.

B. Set Backs.

1. The minimum setbacks for a new single family residential structure or accessory building shall be not less than the following:
 - a. Front set back of not less than ten (10) feet.

- b. Side set back of not less than five (5) feet.
 - c. Rear set back of not less than ten (10) feet. Accessory structures may be located within three (3) feet of the rear lot line if this will not adversely impact the adjacent property.
 - d. **Setbacks for Reconstruction may be determined by a previous buildings footprint, in cases of fire or demolition.**
- 2. In those areas in which there are established front or rear setbacks for the existing developed properties within the same or adjacent blocks that are greater than or less than ten (10) feet, the Design Review Board may increase or decrease the front or rear setback for new structures as necessary to maintain the uniform characteristics of that particular street frontage.
 - 3. Renovations, repairs and additions to existing single family residential structures and accessory structures shall not reduce the existing setbacks to less than what is required for new residential structures or to less than what currently exists, whichever is the lesser distance, unless the Design Review Board makes a specific finding that this construction will be consistent with the uniform characteristics, if any, of the adjacent properties and that any such reduction will not adversely impact adjacent properties.
- C. **Maximum Residential Building Size.**
- The maximum area within the exterior perimeter (the building footprint) of a new single family residential structure within the District shall be two thousand (2000) square feet. Existing structures shall not be remodeled or added to in a manner that increases the area of the structure beyond this limit unless the Design Review Board makes a specific finding that any such expansion is compatible with the mass, scale and shape of the of other properties in the immediate area and consistent with the interests to be protected by these regulations.
- D. **Division of Building Lots and Minimum Lot Size.**
- 1. Within the District, the legal descriptions, sizes and shapes of existing, adjacent lots may be adjusted, re- described or corrected by sales or exchanges between the property owners without further approval provided that there is no net increase in the number of residential or commercial lots within the District.