



TO: T.C. Broadnax, City Manager

FROM: Brian Boudet, Acting Interim Director, Planning and Development Services BBB

SUBJECT: **September 10 Council Meeting: Ordinance establishing "Preventing Neglect of Historic Properties"**

DATE: August 29, 2013

BACKGROUND

This is a request to create a new ordinance, titled "Preventing Neglect of Historic Properties," to be located in a new Chapter of the Tacoma Municipal Code, 8.35. This is a code amendment that is designed to provide the City additional enforcement tools to prevent ongoing neglect of Tacoma's most iconic historic buildings before it becomes cost prohibitive to do so.

ISSUE

"Demolition by neglect" is defined as the process whereby a property owner neglects a historic building until the only course of action feasible to abate the resulting hazards to public health and safety is to demolish the building.

Most buildings are not neglected by their owners. However, in some cases, long term neglect can and has led to demolition, when years of deferred maintenance have created a situation in which a building is too "far gone" to be rehabilitated successfully.

Under the existing enforcement codes, if an owner cannot or will not maintain or repair a building, the City must wait until the building can be classified as "dangerous." By the time this occurs, the neglected condition has often continued for many years, increasing the costs of repair and diminishing the probability that the building can be saved.

SCHEDULE AND OUTREACH

Since late spring, staff has met with and discussed the development of the code with many groups and stakeholders. In addition to the review schedule below, notice of the changes and informational briefing materials have been distributed to over 2,300 owners of historic properties, interested parties and groups, including the Chamber of Commerce and Business Improvement Area. Outreach efforts are ongoing and have continued throughout this schedule.

<u>Date</u>	<u>Meeting</u>
June 3	Neighborhoods and Housing Committee
June 12	Landmarks Preservation Commission
June 18	Historic Tacoma
June 20	Building Board of Appeals

June 26	Landmarks Preservation Commission
July 9	Historic Tacoma
July 15	North Slope and Wedge Historic Districts
July 16	Cross District Association
Aug 8	Historic Property Owners
Aug 14	Landmarks Preservation Commission
Aug 19	Neighborhoods and Housing Committee

FEEDBACK

Community feedback has ranged from fully supportive of this initiative, to concern from certain property owners stemming from uncertainty about the potential impacts of the ordinance. Concerns have included:

- potential for additional burdens or costs for owners of historic properties
- increased costs of maintenance
- potential for subjective application of the standards in the ordinance
- whether the standards in the code acknowledge the age and “historic” nature of the subject properties
- potential for adverse impacts to properties otherwise “in good standing”
- due process and appeals rights
- the City’s efforts to protect historic resources are weighted too heavily on the enforcement side, and too little on the funding and incentives side

In general, the standards present in this proposed ordinance do not introduce any additional responsibilities or obligations to owners of historic properties that do not already exist in code, including the existing Minimum Buildings and Structures Code (TMC 2.01). Most of the building standards language exists already. Moreover, this proposed code does not require any additional maintenance or action on the part of property owners who are maintaining their properties.

The procedures for implementation of the ordinance, including abatement and appeals, are contained in TMC 8.30. In response to the feedback, additional cross referencing language to clarify this relationship has been added.

Likewise, several areas of the proposed ordinance have been revised to provide additional clarity regarding the intent and application of the ordinance, including language regarding the historic nature of older buildings.

Although the City has an array of development and financial incentives that may be used for projects involving historic buildings, staff is also currently exploring options for the development of low interest repair and rehabilitation loans for historic buildings.

PROPOSED CODE

If adopted, the proposed ordinance will:

- Add “neglect of a historic property” to the list of Public Nuisances enforced by the City.
- Apply to properties listed on the Tacoma Register of Historic Places, the National Register of Historic Places, and historically contributing properties within Historic Special Review Overlay Districts and National Register Historic Districts (but will not apply to residential structures containing four or less units)
- Use a set of maintenance standards similar to those found in the International Property Maintenance Code and Minimum Buildings and Structures Code
- Use the Notice of Violation, Civil Penalties and Abatement procedures already contained in the Public Nuisance Code.
- Add additional penalties designed to discourage neglect, such as temporary limits on future development potential if a building must be demolished as a result of neglect.
- Provide authority for the City to enter, as provided by law, and repair conditions that threaten the integrity of a historic building.
- Exist in concert with the authorities already contained in the Minimum Buildings and Structures Code.

In addition, the City will establish an “Emergency Preservation Subfund” and capitalize it with \$250,000 from the existing Dangerous Buildings Fund, to fund potential abatement actions.

RELATED ACTIVITIES

This code amendment is a component of a broader set of initiatives that are designed to improve the protection of historic buildings in Tacoma, including:

- Updates to the Minimum Buildings and Structures Code (TMC 2.01), adopted earlier in 2013. These changes included additional flexibility for exemptions of code requirements for derelict historic buildings being brought into compliance, in addition to flexibility in the code allowing for repair of “dangerous” buildings
- Notifications to the Historic Preservation Officer when a property within a historic district or on a historic register is determined to be derelict or substandard
- Prioritization of derelict historic properties for code compliance
- Development of a searchable GIS-based mapping tool for open compliance cases within Historic Districts

DEVELOPMENT INCENTIVES

It is important to note that in addition to regulatory measures, the City has programs designed to support development activities and property owners.

Incentives available to owners of historic properties within the City of Tacoma include regulatory relief (zoning incentives), property and income tax benefits, as well as development loans and programs that are available to all developers. These include:

- Waivers of downtown design standards
- Historic Conditional Use Permit, for City Landmarks
- Relief from parking requirements
- Transfer of Development Rights

Examples of financial incentives include:

- Special Tax Valuation, a reduced property tax assessment based on investment in a property
- Historic Rehabilitation Tax Credit, an income tax credit based on investment in a property
- Façade Loan Program
- City-assisted financing

ALTERNATIVES

The primary alternative to this proposed legislation is to amend the Minimum Buildings and Structures Code to create a new category of "Unfit Historic Building." Under this alternative, historic structures that have become "unfit" for human habitation or use would enter the enforcement process already in place for "dangerous" and "derelict" buildings. However, local jurisdictions have greater flexibility under local nuisance code language. By classifying "neglect" as a nuisance, there are opportunities to abate both as a nuisance, and, if necessary, also under the Minimum Buildings and Structures Code.

FISCAL IMPACT

The City does not anticipate adding new enforcement resources to implement this ordinance. The City intends to create an "emergency preservation fund" and capitalize it with \$250,000 from the Dangerous Buildings Fund. The City will be able to recover funds invested in abatement, to some degree, through private property liens. Staff is currently working to identify potential need and resources regarding ongoing revenue to support the fund.

RECOMMENDATION

By creating this section, the City will define neglect of a historic building as a Public Nuisance. This will allow the City to intervene earlier in the process of decline in the cases of neglected historic properties. Where appropriate, the City may enter and repair conditions that threaten the integrity of a historic building. By doing so, the risk of loss of iconic structures is greatly reduced, as is the cost of intervention once a building has become "dangerous."

ACTION REQUESTED

The Neighborhoods and Housing Committee forwards this draft code with a recommendation for adoption.