

## DIVISION 8. HISTORIC SITES AND STRUCTURES

*Excerpts from the Municipal Code concerning the powers and duties of the Historic Landmarks and Preservation Commission.*

### **Sec. 114-500(b) Regulation of construction, reconstruction and exterior alteration.**

(1) Any application for a permit from the building inspector involving the exterior of a designated historic structure, site or structure within an historic district shall be filed with the commission.

(2) No owner or person in charge of an historic structure or structure within an historic district shall reconstruct or alter all or any part of the exterior of such property or construct any improvement upon such designated property or cause or permit any such work to be performed upon such property unless a certificate of appropriateness has been granted by the commission. Unless such certificate has been granted by the commission, the building inspector shall not issue a permit for any such work.

(3) Upon filing of any application with the commission, the commission shall determine:

a. Whether, in the case of a designated historic structure, site or structure within an historic district, the proposed work would detrimentally change, destroy or adversely affect any exterior architectural feature of the improvement upon which such work is to be done.

b. Whether, in the case of the construction of a new improvement upon an historic site, the exterior of such improvement would adversely affect or not harmonize with the external appearance of other neighboring improvements on such site.

(4) If the commission determines subsection (3) in the negative, it shall issue the certificate of appropriateness. Upon the issuance of such certificate, the building permit shall then be issued by the building inspector. The commission shall make this decision within 30 days of the filing of the application. Should the commission refuse to issue a certificate of appropriateness due to the failure of the proposal to conform to the above guidelines, the applicant may appeal such decision to the city council, which may grant such certificate by a two-thirds vote only and then only upon a clear showing of economic hardship by the applicant. In addition, if the commission fails to issue a certificate of appropriateness, the commission shall at the request of the applicant cooperate and work with the applicant in an attempt to obtain a certificate of appropriateness within the guidelines of this division.

### **Sec. 114-500(d) Regulation of demolition.**

No permit to demolish all or part of an historic structure shall be granted by the building inspector, except as follows:

(1) At such time as a person applies for a permit to demolish such property, the application shall be filed with the commission. Upon application, the commission may refuse to grant such written approval for a period of up to ten months from the time of such application, during which time the commission and the applicant shall undertake serious and continuing discussions for the purpose of finding a method to save such property. During such period, the applicant and the commission shall cooperate in attempting to avoid demolition of the property. At the end of this ten-month period, if no

mutually agreeable method of saving the subject property bearing a reasonable prospect of eventual success is underway or no formal application for funds from any governmental unit or nonprofit organization to preserve the subject property is pending, the building inspector may issue the permit to demolish the subject property without the approval of the commission.

(2) In determining whether to issue a certificate of appropriateness for any demolition, the commission shall consider and may give decisive weight to any or all of the following:

a. Whether the building or structure is of such architectural or historic significance that its demolition would be detrimental to the public interest and contrary to the general welfare of the people of the city and the state.

b. Whether the building or structure is of such old and unusual or uncommon design, texture and/or material that it could not be reproduced or be reproduced only with great difficulty and/or expense.

c. Whether retention of the building or structure would promote the general welfare of the people of the city and the state by encouraging study of American history or architecture design, or by developing an understanding of American culture and heritage.

d. Whether the building or structure is in such a deteriorated condition that it is not structurally or economically feasible to preserve or restore it, provided that any hardship or difficulty claimed by the owner that is self-created or is the result of any failure to maintain the property in good repair cannot qualify as a basis for the issuance of a certificate of appropriateness.

(3) An appeal from the decision of the commission to grant or deny a certificate of appropriateness, whether this determination is made upon receipt of the application for a demolition permit or at the end of the one-year period in a case where action on the application has been suspended, or to suspend action on a demolition application may be taken to the city council by the applicant for the demolition permit or by the council member of the district in which the subject building or structure is located. Such appeal shall be initiated by filing a petition to appeal specifying the grounds with the city clerk within ten days of the date the final decision of the commission is made. The city clerk shall file the petition to appeal with the city council. After a public hearing, the council may by favorable vote of two-thirds of its members, reserve or modify the decision of the commission if, after balancing the interest of the public in preserving the subject property and the interest of the owner in using it for his own purposes, the council finds that owing to special conditions pertaining to the specific piece of property, demolition will preclude any and all reasonable use of the property and/or will cause serious hardship for the owner, provided that any self-created hardship shall not be a basis for reversal or modification of the commission's decision.