

**ARTICLE VIII. HISTORIC
PRESERVATION***

DIVISION 1. GENERALLY

Sec. 5-231. Definitions.

As used in this article, the following terms shall have the respective meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Certificate of appropriateness means a document evidencing approval by the Avondale Estates Historic Preservation Commission of an application to make a material change in the appearance of a designated historic property or of a building, structure, site, object, or work of art located within a designated historic district.

Designation means a decision by the governing body to designate a property or district as a historic property or as a historic district and thereafter to prohibit all material changes in appearance of such property or within such district prior to the issuance of a certificate of appropriateness by the historic preservation commission.

Exterior architectural features means the architectural style, general design and general arrangement of the exterior of a building or other structure, including, but not limited to, the kind or texture of the building material, the type and style of all windows, doors, signs; and other appurtenant architectural fixtures, features, details or elements relative to the foregoing.

Historic district means a geographically definable area designated by the governing body as a

*Cross reference—Zoning, app. A.

historic district pursuant to the criteria established in section 5-271.

Historic property means an individual building, structure, site, object or work of art, including the adjacent area necessary for the proper application or use thereof, designated as a historic property pursuant to the criteria established in section 5-272.

Material change in appearance means a change that will affect only the exterior architectural features of a historic property or of any building, structure, site, object, or work of art within a historic district, such as:

- (1) A reconstruction or alteration of the size, shape or facade of a historic property, including relocation of any doors or windows or removal or alteration of any architectural features, details or elements;
- (2) Demolition or relocation of a historic structure;
- (3) Commencement of excavation for construction purposes;
- (4) A change in the location of advertising visible from the public way on any historic property; or
- (5) The erection, alteration, restoration or removal of any building or other structure within a designated historic district, including walls, fences, steps and pavements, or other appurtenant features except exterior paint alterations.

(Ord. No. 806, § 2, 7-28-86; Ord. No. 855, § 1(5-70), 9-27-93)

Cross reference—Definitions and rules of construction generally, § 1-2.

Sec. 5-232. Purpose.

In support and furtherance of its findings and determination that the historical, cultural and aesthetic heritage of the city is among its most valued and important assets and that the preservation of this heritage is essential to the promotion of the health, prosperity and general welfare of the people; in order to stimulate revitalization of the business districts and the historic residential neighborhood and to protect and enhance local

historical and aesthetic attractions to tourists and thereby promote and stimulate business; in order to enhance the opportunities for federal or state tax benefits under relevant provisions of federal and state law; and in order to provide for the designation, protection, preservation and rehabilitation of historic properties and historic districts and to participate in federal and state programs to do the same, the governing body hereby declares it to be the purpose and intent of this article to establish a uniform procedure for use in providing for the protection, enhancement, perpetuation and use of places, districts, sites, buildings, structures, objects and works of art having a special historical, cultural or aesthetic interest or value, in accordance with the provisions of this article.

(Ord. No. 806, § 1, 7-28-86; Ord. No. 855, § 1(5-71), 9-27-93)

Secs. 5-233–5-245. Reserved.

DIVISION 2. HISTORIC PRESERVATION COMMISSION

Sec. 5-246. Creation.

There is hereby created a commission the title of which shall be "Avondale Estates Historic Preservation Commission." It is hereinafter referred to as "preservation commission."

(Ord. No. 806, § 3(A), 7-28-86; Ord. No. 855, § 1(5-80), 9-27-93)

Sec. 5-247. Position within the city.

The preservation commission shall be part of the planning function of the city.

(Ord. No. 806, § 3(B), 7-28-86; Ord. No. 855, § 1(5-81), 9-27-93)

Sec. 5-248. Members; number, appointment, terms, compensation.

(a) The preservation commission shall consist of five (5) members appointed by the governing body. All members shall be residents of the city.

(b) A majority of the members shall be appointed from among professionals in the disciplines of architecture, history, architectural history, planning, archaeology, or other historic

preservation-related disciplines, such as urban planning, American studies, American civilization, cultural geography, cultural anthropology, real estate, law, or landscape architecture, and all shall have demonstrated special interest, competence or knowledge in historic preservation.

(c) Members shall serve three-year terms. In order to achieve staggered terms, initial appointments shall be one (1) member for one (1) year; two (2) members for two (2) years, and two (2) members for three (3) years.

(d) Members shall not receive a salary, although they may be reimbursed for expenses at the discretion of the governing body.
(Ord. No. 806, § 3(C), 7-28-86; Ord. No. 834, § 1, 9-27-90; Ord. No. 855, § 1(5-82), 9-27-93)

Sec. 5-249. Powers generally.

The preservation commission shall be authorized to:

- (1) Prepare an inventory of all property within the city having the potential for designation as historic property;
- (2) Recommend to the governing body specific places, districts, sites, buildings, structures or works of art to be designated by ordinance as historic properties or historic districts;
- (3) Review applications for certificates of appropriateness, and grant or deny same in accordance with the provisions of this article;
- (4) Recommend to the governing body that the designation of any place, district, site, building, structure or work of art as a historic property or as a historic district be revoked or removed;
- (5) Restore or preserve any historic properties acquired by the city;
- (6) Promote the acquisition by the city of facade easements in accordance with the provisions of the "Georgia Uniform Conservation Act" (O.C.G.A. §§ 44-10-1 through 44-10-8);

- (7) Conduct educational programs on historic properties located within the city and on general historic preservation activities;
- (8) Make such investigations and studies of matters relating to historic preservation as the governing body or the preservation commission itself may, from time to time, deem necessary or appropriate for the purposes of this article;
- (9) Seek out local, state, federal and private funds for historic preservation, and make recommendations to the governing body concerning the most appropriate use of any funds acquired;
- (10) Consult with historic preservation experts in the historic preservation section of the state department of natural resources or its successor, the Georgia Trust for Historic Preservation, Inc., and other experts;
- (11) Submit to the historic preservation section of the state department of natural resources, or its successor, a list of historic properties or historic districts designated as such pursuant to this article;
- (12) Perform historic preservation activities as the official agency of the city's historic preservation program;
- (13) Solicit, on behalf of the city, donations, grants, funds or gifts of historic properties. The preservation commission shall not obligate the city without prior written approval and consent of the governing body;
- (14) Review and make comments to the historic preservation section of the state department of natural resources concerning the nomination of properties in the city to the national register of historic places; and
- (15) Participate in private, state and federal historic preservation programs and, with the consent of the governing body, enter into agreements to do the same.

(Ord. No. 806, § 3(D), 7-28-86; Ord. No. 855, § 1(5-83), 9-27-93)

Sec. 5-250. Adoption of rules and standards; meetings.

(a) The preservation commission shall adopt rules and standards for the transaction of its business and for consideration of applications for designations and certificates of appropriateness, such as bylaws, removal of membership provisions, and design guidelines and criteria. The preservation commission shall have the flexibility to adopt rules and standards without amendment to this article.

(b) The preservation commission shall provide for the time and place of regular meetings and a method for the calling of special meetings. Such meetings shall be open to the public. The preservation commission shall select a chairman and a vice-chairman from among its members. A quorum shall consist of a majority of the members.

(c) Should a member fail to attend three (3) consecutive meetings, the chairman, with the concurrence of a majority of the entire preservation commission, shall recommend to the governing body that a vacancy be declared and that an appointment be made to the vacated position.
(Ord. No. 806, § 3(E), 7-28-86; Ord. No. 855, § 1(5-84), 9-27-93)

Sec. 5-251. Secretary.

The city clerk shall be secretary of the preservation commission.
(Ord. No. 806, § 3(I), 7-28-86; Ord. No. 855, § 1(5-85), 9-27-93)

Sec. 5-252. Records of meetings.

A public record shall be kept of the preservation commission's resolutions and formal actions.
(Ord. No. 806, § 3(H), 7-28-86; Ord. No. 855, § 1(5-86), 9-27-93)

Sec. 5-253. Conflicts of interest.

No member of the preservation commission shall take part in the hearing, consideration, or determination of any case in which he has ownership or other vested interest other than answering a direct question.
(Ord. No. 806, § 3(F), 7-28-86; Ord. No. 855, § 1(5-87), 9-27-93)

Sec. 5-254. Authority to receive funding from various sources.

The preservation commission shall have the authority to accept donations on behalf of the city but shall not obligate the city without prior written approval and consent of the governing body. The preservation shall ensure that donated funds do not displace appropriated governmental funds.
(Ord. No. 806, § 3(G), 7-28-86; Ord. No. 855, § 1(5-88), 9-27-93)

Secs. 5-255–5-269. Reserved.

DIVISION 3. RECOMMENDATION AND DESIGNATION OF HISTORIC DISTRICTS AND PROPERTIES

Sec. 5-270. Preliminary research by preservation commission.

(a) *Preservation commission's mandate to conduct a survey of local historical resources.* The preservation commission shall compile and collect information and conduct surveys of historic resources within the city.

(b) *Preservation commission's power to recommend districts and buildings to the governing body.* The preservation commission shall present to the governing body recommendations for historic districts and properties.

(c) *Preservation commission's documentation of proposed designation.* Prior to the preservation commission's recommendation of a historic district or historic property to the governing body, the preservation commission shall prepare a report consisting of the following:

- (1) If a property, a description of the property proposed for historic designation and the name of the owner of the property;
- (2) If a district, a description of the boundaries of the district proposed for historic designation and a list of each property located therein, i.e., the street address and map reference number, with the name of the owner of each property;

- (3) A statement on the historic, cultural, architectural, or aesthetic significance of a district or an individual property proposed for historic designation;
- (4) A statement justifying the boundaries of a property or a district proposed for historic designation;
- (5) If a property, photographs of the property proposed for historic designation; if a district, representative photographs of the district proposed for historic designation;
- (6) A copy of the official zoning map or map of the city with the proposed historic property or boundaries of the proposed historic district indicated thereon.

(d) *Notification to historic preservation section.*

At least thirty (30) days prior to making a recommendation to the governing body for designation of a property or district as historic, the preservation commission shall submit the above report, exclusive of subsections (c)(1) and (2) of this section, to the historic preservation section of the state department of natural resources for its review.

(Ord. No. 806, § 4(A), 7-28-86; Ord. No. 855, § 1(5-90), 9-27-93)

Sec. 5-271. Criteria for designation of a historic district.

A historic district is a geographically definable area containing buildings, structures, sites, objects, works of art or a combination thereof, which:

- (1) Have special character or special historical or aesthetic value or interest;
- (2) Represent one (1) or more periods or styles of architecture typical of one (1) or more eras in the history of the city, county, state or region; and
- (3) Cause such area, by reason of such factors, to constitute a visibly perceptible section of the city or county.

(Ord. No. 806, § 4(B), 7-28-86; Ord. No. 855, § 1(5-91), 9-27-93)

Sec. 5-272. Criteria for designation of a historic property.

A historic property is a building, structure, site, object, or work of art, including the adjacent area necessary for the proper appreciation or use thereof, deemed worthy of preservation by reason of its value to the city, county, state, or region for one or more of the following reasons:

- (1) It is an outstanding example of a structure representative of its era;
- (2) It is one of the few remaining examples of past architectural style;
- (3) It is a place or structure associated with an event or person of historic or cultural significance to the city, county, state, or region; or
- (4) It is a site of natural or aesthetic interest that is continuing to contribute to the cultural or historical development and heritage of the city, county, state or region.

(Ord. No. 806, § 4(C), 7-28-86; Ord. No. 855, § 1(5-92), 9-27-93)

Sec. 5-273. Requirements for adopting an ordinance for the designation of historic districts and historic properties.

(a) *Application for designation of historic districts or properties.* Designation may be proposed by the governing body, the preservation commission, or from any other source within the city.

(b) *Required components of a designation ordinance.* Any ordinance designating any property or district as historic shall:

- (1) Require that the designated property or district be shown on the official zoning map of the city or, in the absence of such a map, on an official map to be kept and maintained as a public record to provide notice of such designations;
- (2) List each property located in a proposed historic district by street address and map reference number or describe the proposed historic property;

- (3) Set forth the names of the owners of the proposed historic property or the names of the owners of each property located within a proposed historic district; and
- (4) Require that a certificate of appropriateness be obtained from the preservation commission prior to any material change in appearance of a designated historic property or to any property located within a designated historic district.

(c) *Required hearings.* The preservation commission and the governing body shall hold a public hearing on any proposed ordinance for the designation of any historic district or property. Notice of the hearing shall be published at least three (3) times in the principal daily newspaper of general circulation and, if not the same newspaper, once in the city's official newspaper organ; written notice of the hearing shall be mailed by the preservation commission to all owners and occupants of such properties. All such notices shall be published or mailed not less than ten (10), but not more than twenty (20) days prior to the date set for the public hearing. A notice sent via United States mail to the last known owner of the property shown on the city tax roll and where the property is owner-occupied, a notice sent via United States mail to the address of the property to the attention of the occupant shall constitute legal notification to the owner and occupant under this article.

(d) *Recommendation on proposed designation.* A recommendation to affirm, modify, or withdraw the proposed ordinance for designation shall be made by the preservation commission following the public hearing and shall be in the form of a resolution to the governing body.

(e) *Governing body action on preservation commission recommendations.* Following receipt of the preservation commission's recommendation, the governing body, subject to normal processes for adoption of an ordinance by the city, may adopt the ordinance as proposed, may adopt the ordinance with any amendments it deems necessary, or reject the ordinance.

(f) *Notification of adoption of ordinance for designation.* Within thirty (30) days following the adoption by the governing body of an ordinance

for designation, the owners and occupants of each designated historic property and the owners and occupants of each structure, site or work of art located within a designated historic district shall be given written notification of such designation by the governing body, which notice shall apprise such owners and occupants of the necessity for obtaining a certificate of appropriateness prior to undertaking any material change in the appearance of the historic property designated or within the historic district designated. A notice sent via the United States mail to the last known owner of the property shown on the city tax roll and, where the property is not owner-occupied a notice sent via United States mail to the address of the property to the attention of the occupant shall constitute legal notification to the owner and occupant under this article.

(g) *Notification of other agencies regarding designation.* Within thirty (30) days following the adoption of an ordinance for designation, the governing body shall notify the planning and zoning board, the city development authority, the city codes enforcement officer, and the city attorney.

(h) *Moratorium on applications for alteration, demolition, or relocation while ordinance for designation is pending.* If an ordinance for designation is being considered, the status of the involved property shall be frozen.
(Ord. No. 806, § 4(D), 7-28-86; Ord. No. 855, § 1(5-93), 9-27-93)

Sec. 5-274. Designation of historic properties.

Designated properties are shown on an official map kept by the city clerk and maintained as a public record to provide such notice of designation.
(Ord. No. 0408, § 1, 10-25-04)

Sec. 5-275. List of historic properties.

Properties within the designated historic district are listed by owner, street address and parcel id number on Exhibit B.
(Ord. No. 0408, § 1, 10-25-04)

Sec. 5-276. Repealed.

Editor's note—Ord. No. 0704, § 1, adopted August 27, 2007, repealed § 5-276, which pertained to appeal from tier designation.

Sec. 5-277. Requirement for certificate of appropriateness.

A certificate of appropriateness shall be obtained from the preservation commission prior to any material change in appearance of a designated historic property or within a designated historic district.

(Ord. No. 0408, § 1, 10-25-04)

Sec. 5-278. Notification of adoption of ordinance for designation.

Within thirty (30) days following the adoption of this section for designation, the owners and occupants of each designated historic property and the owners and occupants of each structure, site or work of art located within a designated historic district shall be given written notification of such designation by the governing body, which notice shall apprise such owners and occupants of the necessity for obtaining a certificate of appropriateness prior to undertaking any material change in the appearance of the historic property designated or within the historic district designated. A notice sent via the United States mail to the last known owner of the property shown on the city tax roll and, where the property is not owner-occupied a notice sent via United States mail to the address of the property to the attention of the occupant shall constitute legal notification to the owner and occupant under this article.

(Ord. No. 0408, § 1, 10-25-04)

Sec. 5-279. Notification of other agencies regarding designation.

Within thirty (30) days following the adoption of this section for designation, the governing body shall notify the planning and zoning board, the city development authority, the city codes enforcement office, and the city attorney.

(Ord. No. 0408, § 1, 10-25-04)

Sec. 5-280. Exhibits made public records.

The documents referred to above as Exhibits A, B, and C are hereby made public records and shall be maintained by the clerk as such and be accessible to the general public during all normal business hours of the City of Avondale Estates.

(Ord. No. 0408, § 1, 10-25-04)

DIVISION 4. USE OF TIER CLASSIFICATION SYSTEM BY PRESERVATION COMMISSION*

Sec. 5-281. Authority for tier classification system.

(a) The preservation commission may create a tier classification system for use for use in administering historic preservation within the city. The preservation commission may assign a tier classification to any designated historic property within the city according to the property's relative architectural, historical, or cultural significance.

(b) The preservation commission may consider the tier classification of a designated historic property when reviewing an application for certificate of appropriateness pursuant to this article.

(Ord. No. 0704, § 3, 8-27-07)

Sec. 5-282. Petition for tier change.

(a) Any owner of a designated historic property who is dissatisfied with the tier classification assigned to that owner's property may petition the preservation commission to reclassify the owner's property to another tier.

(b) Such petition for tier classification change shall be presented to the preservation commission in writing and shall set forth the grounds asserted for the proposed change.

(c) The preservation commission shall consider the petition for tier change at its next regularly scheduled meeting.

**Editor's note*—Ord. No. 0704, §§ 2, 3, adopted August 27, 2007, renumbered former Divisions 4 and 5 as Divisions 5 and 6 to provide for the addition of a new Division 4, §§ 5-281—5-284, as set out herein. At the editor's discretion, Division 6 has been renumbered as Division 7, to facilitate inclusion of Ord. No. 0704.

(d) The preservation commission may then change the tier classification of the property, retain the classification, or defer the petition for tier change to a date certain.

(Ord. No. 0704, § 3, 8-27-07)

Sec. 5-283. Appeal.

If an owner is dissatisfied with the determination of the preservation commission pursuant to section 5-282(d), then the owner may appeal such determination to the superior court of the county in the manner provided by law for appeals from a conviction for city ordinance violations.

(Ord. No. 0704, § 3, 8-27-07)

Sec. 5-284. Ratification of tier changes.

Only tier change petitions initiated after the effective date of this division shall be subject to the procedures herein. All tier classifications previously assigned or changed by the preservation commission prior to the effective date of this division are expressly ratified by the governing body.

(Ord. No. 0704, § 3, 8-27-07)

Secs. 5-285—5-290. Reserved.

DIVISION 5. APPLICATION TO
PRESERVATION COMMISSION FOR
CERTIFICATE OF APPROPRIATENESS*

Sec. 5-291. Approval of alterations or new construction in historic districts or involving properties.

After the designation by ordinance of a historic property or of a historic district, no material change in the appearance of a historic property, or of a structure, site, or work of art within the historic district shall be made or be permitted to be made by the owner or occupant thereof, unless or until the application for a certificate of appropriateness has been submitted to and approved by the preservation commission.

(Ord. No. 806, § 5(A), 7-28-86; Ord. No. 855, § 1(5-100), 9-27-93)

*Note—See the editor's note at Div. 4.

Sec. 5-292. Exemptions.

The department of transportation and any contractors performing work funded by the department of transportation are exempt from this article. The city and county are exempt from the requirement of obtaining certificates of appropriateness; provided, however, that the city and county shall notify the preservation commission forty-five (45) days prior to beginning an undertaking that would otherwise require a certificate of appropriateness and allow the preservation commission an opportunity to comment.

(Ord. No. 855, § 1(5-101), 9-27-93)

Sec. 5-293. Submission of plans to preservation commission.

An application for a certificate of appropriateness shall be accompanied by such drawings, photographs, plans or other documentation as may be required by the preservation commission. Applications involving demolition or relocation shall be accompanied by post-demolition or relocation plans for the site.

(Ord. No. 806, § 5(D), 7-28-86; Ord. No. 855, § 1(5-102), 9-27-93)

Sec. 5-294. Public hearings on applications for certificates of appropriateness; notices and right to be heard.

(a) At least ten (10) days prior to review of an application for a certificate of appropriateness, the preservation commission shall notify by first class mail the owners of any property likely to be affected materially by the application, and shall give the applicant and such owners an opportunity to be heard.

(b) In cases where the preservation commission deems it necessary, it may hold a public hearing concerning the application. Notice shall be given once in the city's official newspaper organ at least seven (7) days prior to such a public hearing.

(Ord. No. 806, § 5(F), 7-28-86; Ord. No. 855, § 1(5-103), 9-27-93)

Sec. 5-295. Review criteria for certificates of appropriateness.

(a) In its review of applications for certificates of appropriateness, the preservation commission shall not consider interior arrangement or uses having no effect on exterior architectural features.

(b) The preservation commission shall have the power to seek technical advice from outside its membership on any application.

(c) When considering applications for certificates of appropriateness for existing buildings, the secretary of interior's "Standards for Rehabilitation" shall be used as a guideline along with any other criteria adopted by the preservation commission; provided, however, that the preservation commission may vary this requirement where the facts and circumstances would indicate such variance is in the best interest of the city and not contrary to the intent of this article.

(d) The preservation commission shall approve an application and issue a certificate of appropriateness if it finds that the proposed new construction or material change in appearance of an existing structure would not have a substantial adverse effect on the aesthetic, historical, or architectural significance and value of the historic property or the historic district. In making this determination, the preservation commission shall consider, in addition to any other pertinent factors, the historical and architectural value and significance; architectural style; general design, arrangement, texture, and material of the architectural features involved; and the relationship thereof to the exterior architectural style and pertinent features of other structures in the immediate neighborhood.

(e) The preservation commission shall deny a certificate of appropriateness if it finds that the proposed material change in appearance or the new construction would have substantial adverse effects on the aesthetic, historic, or architectural features of the property or the district.
(Ord. No. 855, § 1(5-104), 9-27-93)

Sec. 5-296. Deadline for approval or rejection of application for certificate of appropriateness.

(a) The preservation commission shall approve or reject an application for a certificate of appropriateness within forty-five (45) days after the filing thereof by the owner or occupant of a historic property, or of a structure, site, or work of art located within a historic district. Evidence of approval shall be by a certificate of appropriateness issued by the preservation commission.

(b) Failure of the preservation commission to act within the forty-five-day period shall constitute approval and no other evidence of approval shall be needed.

(Ord. No. 806, § 5(I), 7-28-86; Ord. No. 855, § 1(5-105), 9-27-93)

Sec. 5-297. Action to be taken by preservation commission upon rejection of application for certificate of appropriateness.

If the preservation commission rejects an application, it shall state its reasons for doing so and shall transmit by United States mail a record of such action and the reasons therefor to the applicant. The preservation commission may suggest alternative courses of action it thinks proper if it disapproves of the application submitted. The applicant, if such applicant so desires, may make modifications to the plans and may resubmit the application at any time after so doing.

(Ord. No. 806, § 5(J), 7-28-86; Ord. No. 855, § 1(5-106), 9-27-93)

Sec. 5-298. Notification to building inspector; issuance of building permits.

In cases of new construction or where the application covers a material change in the appearance of a structure which would require the issuance of a building permit, no building permit for a historic property or a property within a historic district shall be issued by the building inspector or other administrative officer charged

with issuing building permits unless a certificate of appropriateness has first been obtained from the preservation commission.

(Ord. No. 855, § 1(5-107), 9-27-93)

Sec. 5-299. Undue hardship.

Where, by reason of unusual circumstances, the strict application of any provision of this article would result in exceptional practical difficulty or undue hardship upon any owner of a specific property, the preservation commission, in passing upon applications, shall have the power to vary or modify strict adherence to such provisions, or to interpret the meaning of such provisions, so as to relieve such difficulty or hardship, provided such variances, modifications or interpretations shall remain in harmony with the general purpose and intent of such provisions, so that the architectural or historical integrity, or character of the property, shall be conserved and substantial justice done. In granting variances, the preservation commission may impose such reasonable and additional stipulations and conditions as will, in its judgment, best fulfill the purpose of this article. An undue hardship shall not be a situation of the person's own making.

(Ord. No. 806, § 5(K), 7-28-86; Ord. No. 855, § 1(5-108), 9-27-93)

Sec. 5-300. Conformance with certificate of appropriateness.

(a) All work performed pursuant to an issued certificate of appropriateness shall conform to the requirements of such certificate. If the work is not performed in accordance with such certificate, the preservation commission shall issue a cease and desist order and all work shall cease.

(b) The governing body or the preservation commission shall be authorized to institute any appropriate action or proceeding in a court of competent jurisdiction to prevent any material change in appearance of a designated historic property or historic district, except those changes made in compliance with the certificate of appropriateness or to prevent any illegal act or conduct with respect to such historic property or historic district.

(Ord. No. 806, § 5(L), 7-28-86; Ord. No. 855, § 1(5-109), 9-27-93)

Sec. 5-301. Certificate of appropriateness void if construction not commenced.

Certificates of appropriateness shall be issued for a period of eighteen (18) months and are renewable. They shall become void unless construction is commenced within six (6) months from date of issuance.

(Ord. No. 806, § 5(M), 7-28-86; Ord. No. 855, § 1(5-110), 9-27-93)

Sec. 5-302. Recording of applications for certificates of appropriateness.

The preservation commission shall keep a public record of all applications for certificates of appropriateness and of all its proceedings.

(Ord. No. 806, § 5(N), 7-28-86; Ord. No. 855, § 1(5-111), 9-27-93)

Sec. 5-303. Acquisition of property.

The preservation commission may, where such action is authorized by the governing body and is reasonably necessary or appropriate for the preservation of a unique historic property, enter into negotiations with the owner for the acquisition by gift, purchase, exchange or otherwise of the property or any interest therein for or on behalf of the city.

(Ord. No. 806, § 5(O), 7-28-86; Ord. No. 855, § 1(5-112), 9-27-93)

Sec. 5-304. Appeals.

(a) Any person adversely affected by any determination made by the preservation commission relative to the issuance or denial of a certificate of appropriateness may appeal such determination to the governing body.

(b) Any such appeal must be filed in writing with the governing body through the city clerk within fifteen (15) days after the issuance of the determination pursuant to section 5-296(a) or, in the case of a failure of the preservation commission to act, within fifteen (15) days of the expiration of the forty-five-day period allowed for preservation commission action, section 5-296(b).

(c) The appeal will be considered at the next regular meeting of the governing body. The governing body may approve, modify and approve, defer the appeal to a date certain, or reject the determination made by the preservation commission if the governing body finds that the preservation commission abused its discretion in reaching its decision.

(d) Appeals from decisions of the governing body made pursuant to this article may be taken to the superior court of the county in the manner provided by law for appeals from a conviction for city ordinance violations.

(Ord. No. 806, § 5(P), 7-28-86; Ord. No. 855, § 1(5-113), 9-27-93)

Secs. 5-305—5-320. Reserved.

DIVISION 6. DEMOLITION OR RELOCATION OF A HISTORIC PROPERTY OR PROPERTIES WITHIN A HISTORIC DISTRICT*

Sec. 5-321. Authority to deny certificates of appropriateness for demolition or relocation.

The preservation commission shall have the authority to deny certificates of appropriateness for demolition or relocation.

(Ord. No. 806, § 6(A), 7-28-86; Ord. No. 855, § 1(5-120), 9-27-93)

Sec. 5-322. Public hearing.

(a) A public hearing shall be scheduled for each application for a certificate of appropriateness for demolition or relocation.

(b) Notice of the public hearing shall be published once in the city's official newspaper organ at least seven (7) days prior to the public hearing.

(Ord. No. 806, § 6(B), 7-28-86; Ord. No. 855, § 1(5-121), 9-27-93)

Sec. 5-323. Consideration of post-demolition or post-relocation plans.

The preservation commission shall not grant certificates of appropriateness for demolition or

*Note—See the editor's note at Div. 4.

relocation without reviewing at the same time the post-demolition or post-relocation plans for the site.

(Ord. No. 806, § 6(C), 7-28-86; Ord. No. 855, § 1(5-122), 9-27-93)

Sec. 5-324. Demolition/relocation criteria.

Upon receipt of an application for a certificate of appropriateness for demolition or relocation, the preservation commission shall use the criteria described in section 5-295 to determine whether to deny the application or issue a certificate of appropriateness for demolition or relocation.

(Ord. No. 806, § 6(D), 7-28-86; Ord. No. 855, § 1(5-123), 9-27-93)

Secs. 5-325—5-340. Reserved.

DIVISION 7. MAINTENANCE OF HISTORIC PROPERTIES AND BUILDING AND ZONING CODE PROVISIONS†

Sec. 5-341. Ordinary maintenance or repair.

Ordinary maintenance or repair of any exterior architectural feature in or on a historic property to correct deterioration, decay or damage, or to sustain the existing form, and that does not involve a material change in design, material or outer appearance thereof, shall not require a certificate of appropriateness. Such determination shall be made in accordance with the published rules of the preservation commission.

(Ord. No. 806, § 7(A), 7-28-86; Ord. No. 855, § 1(5-130), 9-27-93)

Sec. 5-342. Failure to provide ordinary maintenance or repair.

Property owners of historic properties or properties within historic districts shall not allow their buildings to deteriorate by failing to provide ordinary maintenance or repair. The preservation commission shall be charged with the following responsibilities regarding deterioration by neglect:

- (1) The preservation commission shall monitor the condition of historic properties and

†Note—See the editor's note at Div. 4.

existing buildings in historic districts to determine if they are being allowed to deteriorate by neglect. Conditions such as broken windows, doors and openings which allow the elements and/or vermin to enter, the deterioration of exterior architectural features, or the deterioration of a building's structural system shall constitute failure to provide ordinary maintenance or repair.

- (2) If the preservation commission determines a failure to provide ordinary maintenance or repair, the preservation commission shall notify the owner of the property and set forth the steps which need to be taken to remedy the situation. The owner of such property shall have thirty (30) days in which to reply to such notification and set forth such owner's proposed steps to remedy the situation and then six (6) months to remedy the situation.
- (3) If documentation can be submitted showing cause as to why a particular situation cannot be remedied within six (6) months, the preservation commission may grant an extension not to exceed eighteen (18) months from original notification by the preservation commission.
- (4) If the condition is not remedied within the prescribed time limits, the owner shall be punished as provided in section 1-8 and, where such action is authorized by the governing body, the preservation commission may perform or have performed such maintenance or repair necessary to prevent deterioration by neglect. The cost of such maintenance and repair shall be assessed against the property and such assessment shall constitute a lien on the property until paid. An execution in favor of the city in the amount of such assessment shall be issued by the city clerk and shall be collected in accordance with the applicable provisions of law.

(Ord. No. 806, § 7(B), 7-28-86; Ord. No. 855, § 1(5-131), 9-27-93)

Sec. 5-343. Affirmation of existing building and zoning codes.

Nothing in this article shall be construed to exempt property owners from complying with existing city building and zoning codes, nor to prevent any property owner from making any use of such person's property not prohibited by other laws, ordinances or regulations.

(Ord. No. 806, § 7(C), 7-28-86; Ord. No. 855, § 1(5-132), 9-27-93)

Secs. 5-344—5-360. Reserved.