

NEW BUSINESS: CODE AMENDMENT INITIATION REVIEW SHEET

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Amendment: Historic Preservation Code Amendments relating to time limits for action by the Historic Landmark Commission and standing to appeal Historic Landmark Commission decisions.

Description: Initiate an amendment to Title 25 of the City Code to:

1. Clarify the time allowed by the Historic Landmark Commission to take action on an application for a Certificate of Appropriateness by deleting Section 25-11-245, which has been replaced by Section 25-11-213.
2. Amend Sections 25-11-243 and 25-11-244 to refer to Section 25-11-213 rather than to 25-11-241, which no longer exists in the Code.
3. Amend Section 25-11-247 to define a party with standing to appeal a decision of the Historic Landmark Commission regarding Certificates of Appropriateness and to limit appeals to Commission actions on Certificates of Appropriateness only.

Proposed Language:

Background: Initiation recommended by Codes and Ordinances Subcommittee on February 25, 2014.

1. **Clarify the time allowed by the Historic Landmark Commission to take action on an application for a Certificate of Appropriateness by deleting Section 25-11-245.**

Code changes in the last few years have resulted in discrepancies and conflicts, particularly in the area of the time limit under which the Historic Landmark Commission has to act upon an application for a Certificate of Appropriateness. Sections 25-11-241 and 25-11-242 were removed from the Code when the Council approved a Code change amending Section 25-11-213, which now sets out the time limits for the Historic Landmark Commission to take action on any application before it. Section 25-11-245 should have been deleted at that time, as it has been superseded by the amendments to Section 25-11-213, and conflicts with the newer provisions.

Section 25-11-245 allows the Historic Landmark Commission **60 days from the time of the application** for a Certificate of Appropriateness to take action. The newer section, 25-11-213, allows the Commission **up to 75 days after the date that the case is first posted on their agenda** to take action on an application for a Certificate of Appropriateness, which is a reasonable time limit, especially in complex cases; to require the Commission to take action within 60 days of the date of application is not a reasonable amount of time, and has resulted in the default approval of an application.

2. **Amend Sections 25-11-243 and 25-11-244 to refer to Section 25-11-213 rather than to 25-11-241, which no longer exists in the Code.**

Sections 25-11-243 and 25-11-244 refer to Sections 25-11-241 and 25-11-242, which no longer exist in the Code, and should be amended to refer to Section 25-11-213, which has replaced the removed Code sections.

3. **Revise Section 25-11-247 to define who can appeal a decision of the Historic Landmark Commission to only those proposals which require a Certificate of Appropriateness, which the Commission issues for individually-designated historic landmarks (H zoning) and for contributing properties in locally-designated historic districts (HD zoning)**

Currently the Code allows any interested party, defined by Section 25-1-131 as any person entitled to notice of a public hearing and who expresses an interest in the case, to appeal any decision by the Historic Landmark Commission, including the release of a demolition or relocation permit, a National Register Historic District building or sign permit, and an application for a Certificate of Appropriateness.

The Historic Landmark Commission has the following authority on demolition and relocation permits:

a. Demolition and relocation permits for properties which are not historic landmarks (H zoning) or contributing properties to a locally-designated historic district (HD zoning): The Commission holds a public hearing on an application for demolition or relocation, and decides to either release the permit (generally with conditions), or to initiate a historic zoning case on the building. The standard used by the Historic Landmark Commission is to determine whether the building qualifies as a historic landmark to prevent its demolition or relocation.

If approved for demolition or relocation, the Historic Preservation Office must forward the approval to the building official within 30 days after the date of the hearing, and the building official must issue the permit within 5 days after the receipt of the approval and release.

This section applies to buildings located in National Register Districts and buildings not within any historic district. The Historic Landmark Commission has only advisory authority over building permits in National Register Districts and no authority over building permits on buildings outside any district. So, while the Landmark Commission may be able to initiate a historic zoning case to protect the building, the applicant could very well decide to withdraw the demolition permit application and submit a design that completely compromises the historic character of the building, and the Landmark Commission has no power to do anything other than advise against it. Contributing properties in National Register Districts also have a demolition delay protection, which allows the Historic Landmark Commission to work with the property owner seeking the demolition or relocation of a contributing building for up to 180 days to devise a solution that would maintain the building within the district.

b. Certificates of Appropriateness for historic landmarks (H zoning), and contributing properties in locally-designated historic districts (HD zoning). The best means for protecting the character of the city's historic districts is through locally-designated historic districts, which have enforceable design standards as a part of the protection package. Contributing buildings in locally-designated historic districts are subject to approve/deny authority by the Historic Landmark Commission for building permits, and there is a higher bar for the applicant to show that a contributing building should be removed – found in Section 25-11-243(C), which will also need a revision to apply to contributing buildings in locally-designated districts rather than just to historic landmarks.

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Code sections that will require revisions:

- 25-11-211 (3) – add “historic landmark to the definition of when a certificate of appropriateness is required.
- 25-11-211 (5) – add separate sections for contributing structures in a locally-designated historic district (which need a Certificate of Appropriateness) and contributing structures in a National Register Historic Districts (which do not need a Certificate of Appropriateness).
- 25-11-212(A)(1) – specify that the Certificate of Appropriateness is necessary only for a contributing structure in a locally-designated historic district (HD zoning) – refer to 25-11-211 (5), proposed new subsection (a).
- 25-11-212(B) – add contributing structures, proposed new subsections 25-11-211 (5) (a) and (b).
- 25-11-212 (C)(1) – add “as defined by [proposed new subsection] 25-11-211 (5)(a).”
- 25-11-213 (C)(3) – add contributing structures under proposed new subsections 25-11-211 (5) (a) or (b).
- 25-11-213 (G)(2) – add “an application for demolition or relocation”.
- 25-11-217(C) – add proposed new subsections 25-11-211 (5) (a) and (b).
- 25-11-243(A) – change the reference to 25-11-213 (D).
- 25-11-243(B) – include contributing structures in locally-designated historic districts.
- 25-11-243(C) – include contributing structures in locally-designated historic districts.
- 25-11-244(A) – delete the current reference to the Code and replace with “a historic landmark or a contributing structure within a locally-designated historic district as defined by [proposed new subsection] 25-11-211 (5) (a).
- 25-11-246(A) – include contributing structures in locally-designated historic districts.
- 25-11-246(B) – include contributing structures in locally-designated historic districts.
- 25-11-247(A) – specify that only those cases requiring a Certificate of Appropriateness under 25-11-212(A)(1) can be appealed by an interested party, **and** that they must do so within a shorter period of time than the 60 days currently specified. The Commission has only 30 days to forward the approval decision to the building official, so the appeal time should be shorter than the time that the Commission has to forward their decision for execution.

Staff Recommendation: Recommends initiation of this code amendment.

Board and Commission Actions:

Council Action:

Ordinance Number: NA

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