

ARTICLE V. CERTIFICATES OF APPROPRIATENESS

Sec. 15-126. Certificate of appropriateness prerequisite to changes in historic property or historic district; submission and consideration of application for certificate; rules, regulations and standards; expedited procedure; records.

(a) No change in the exterior appearance of a historic property or any building, structure or site within a historic district may be made, and no historic property may be demolished, and no building or structure in a historic district may be erected or demolished unless and until a certificate of appropriateness for such change, erection or demolition is approved by the board. No permit for changing, building or demolishing a historic property or any building, structure or site within a historic district may be issued by the chief building official of the city until a certificate of appropriateness has been approved by the board.

(1) Signs shall be considered structures and no sign on a historic property or in a historic district shall be changed, erected or demolished unless and until a certificate of appropriateness is approved by the board.

(2) Maintaining a historic property or a structure in a historic district in a manner that threatens the structural integrity of the property constitutes demolition by neglect and constitutes a change for which a certificate of appropriateness is necessary.

(3) Construction, reconstruction, repair or alteration of buildings or landscaping shall constitute a change for which a certificate of appropriateness is necessary.

(4) Landscaping includes without limitation grading, paving, construction of walkways, driveways, pools, and all other surface additions and improvements, but does not include the mere planting or removal of plant materials, other than the removal of trees larger than 12 inches in diameter, whose removal will nevertheless be permitted; except where, all aspects of the removal having been considered, removal would, in the judgment of the board, have a net material adverse impact on the character and appearance of the historic property or historic district.

(5) Repair does not include routine, necessary maintenance of a building or property wherein previously existing materials are to be replaced with identical materials or where existing paint is to be replaced with paint of substantially the same color.

(6) The painting of originally unpainted surfaces shall require a certificate of appropriateness.

(7) The installation, removal or maintenance of mechanical systems and appurtenances such as heating and air conditioning, water treatment, and satellite systems are not changes for which a certificate of appropriateness is required.

(b) The requirement of a certificate of appropriateness shall apply to public property which has been designated as a historic property or which is contained in a historic district, and shall apply to all actions by public authorities that involve historic properties and properties within historic districts.

(c) In addition to the procedures set forth in this chapter, the board shall adopt rules and regulations setting forth additional procedures for submission and consideration of applications for certificates of appropriateness.

(d) Each application made to the city for a permit to demolish a historic property or any structure within a historic district shall be submitted to the board to begin the application process for a certificate of appropriateness.

(e) Each application made to the city for a permit to alter or repair a historic property or to build, alter or repair a structure within a historic district shall be accompanied by plans for the proposed work. Such plans shall consist of photographs, drawings or sketches with sufficient detail to show the appearance of the architectural design of the building or work contemplated. With each set of plans there shall be

submitted a detailed set of specifications and the plans and specifications shall be sufficient to show the plot plans or site layouts or features such as general exterior appearance, accessory structures, signs, lights, and other appurtenances. Such plans shall be forwarded to the board to begin the application process for a certificate of appropriateness.

(f) The board shall promptly review such application and shall render its decision thereon and submit that decision in the form of a written order to the chief building official. All applications for certificates of appropriateness shall be considered by the board after a public hearing. Notice of said hearing shall be published in a newspaper of local circulation in at least one issue published no more than 20 days and no less than ten days prior to the hearing date.

(g) Any applicant may appear in person before the board in his own behalf and may present evidence. It shall not be mandatory that the usual rules of evidence be followed. If the board disapproves any application or portion thereof, it shall state its reasons and its order shall state whether or not specific suggested revisions will make the plans eligible for reconsideration by the board. If the board fails to act or to report on an application within 75 days, such failure shall be deemed to be approval of the application and its accompanying plans and specifications.

(h) The board shall adopt general design standards that shall apply in considering the granting and denial of certificates of appropriateness. Design standards shall be consistent with the Secretary of the Interior's Standards, taking into account local characteristics and goals.

(i) The board shall adopt and cause to be published a selection of approved body, roof, and trim paint colors for use on historic properties or buildings within historic districts. Any person using these pre-approved colors shall be deemed to have the approval of the board to do so without having to appear before the board. Changes to historic properties or buildings within historic districts other than painting with such pre-approved colors must be approved by the board as otherwise provided in this chapter. Persons wishing to use colors not part of the approved selection may apply to the board for approval following its regular procedures, and if such color is approved the board may add it to the selection of approved paint colors.

(j) The board may adopt an expedited procedure for approval of routine maintenance to historic properties, or to buildings or structures in historic districts. Such expedited procedure may waive the requirements for submission of an application for a certificate of appropriateness and for consideration at a public hearing.

(k) The board shall keep a record of all applications for certificates of appropriateness and requests for approval of routine maintenance and of all of its proceedings.

(Ord. No. 28-2004, pt. IV, § 1, 4-6-2004)

Sec. 15-127. Issuance of certificate; factors considered; reasons for rejection; application for reconsideration; effect of rejection on issuance of building permit.

(a) The board shall approve an application and issue a certificate of appropriateness if it finds that the proposed change, erection or demolition conforms to the general design standards established by the board, is compatible with the character of the historic property or historic district and does not materially impair the architectural or historic value of the historic property or historic district. In making this determination, the board shall consider, in addition to any other pertinent factors, the historic and architectural features involved and the proposed change thereto, and the relationship thereof, to the exterior architectural style, and pertinent features of other structures in the immediate neighborhood. Before the board approves the plans for a proposed new building located within a historic district, the board shall find that such building neither in itself nor by reason of its location will materially impair the architectural or historic value of other buildings or sites in that historic district. Before the board approves the proposed demolition of an existing building within a historic district, the board must find that the removal of such building will not be detrimental to the historic or architectural character of that historic district or the board must find that, after balancing the interest of the city in preserving the integrity of the district against the interests of the property owner in the use and benefits of his property, approval of the plans for demolition is required by consideration of reasonable justice and equity.

(b) In its review of applications for certificate of appropriateness, the board shall not consider interior changes, design or use having no effect on the exterior of a building or structure. Further, the board shall not impose any architectural style, traditional or modern, as a condition precedent to approval, except as necessary to ensure that the proposed work will not materially impair the architectural or historic value of the historic property or historic district.

(c) In the event the board rejects an application, it shall state its reasons for doing so and shall transmit a record of such action and reasons therefor, in writing, to the applicant and to the chief building official. The applicant may make modifications to its plans and resubmit the application for reconsideration at any time after doing so.

(d) In cases where the application is for a change in the exterior of the building or structure that would require the issuance of a building permit, the rejection of an application for a certificate of appropriateness by the board shall be binding upon all agencies of the city and, in such case, no building permit shall be issued.

(Ord. No. 28-2004, pt. IV, § 2, 4-6-2004)

Sec. 15-128. Conflict of interest.

No member of the board may vote on any application in which he has a proprietary, tenancy, or personal interest, or upon any design or plan, which he was employed to make.

(Ord. No. 28-2004, pt. IV, § 3, 4-6-2004)

Sec. 15-129. No control over land use or building standards.

(a) The board shall not exercise any control over land use otherwise provided for by the zoning ordinance, nor over the safety standards of construction otherwise provided for by the building code.

(b) Before approving any plans for the demolition of a structure, the loss of which will impair the architectural integrity of the district, the board may issue an order postponing the demolition for a period not to exceed six months in order to give the historic commission, the city council and other interested parties or groups an opportunity to properly compensate or compromise with the property owner.

(Ord. No. 28-2004, pt. IV, § 4, 4-6-2004)

Sec. 15-130. Appeal of denial of application to circuit court.

Any person having a request for a certificate of appropriateness denied by the board may appeal such denial to the Montgomery County Circuit Court. Any such appeal shall be filed with the circuit court within 30 days after receipt of the notice of the final decision of the board.

(Ord. No. 28-2004, pt. IV, § 5, 4-6-2004)