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ADOPTED
METROPOLITAN COUNCIL

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ORDINANCE

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Cassey Cash
COUNCIL ADMINISTRATOR TREASURER

AMENDING TITLE 7 (PLANNING AND ZONING), CHAPTER 3 (ADMINISTRATIVE MECHANISMS) OF THE CODE OF ORDINANCES OF THE CITY OF BATON ROUGE AND PARISH OF EAST BATON ROUGE, SO AS TO AMEND SECTION 3.5 (HISTORIC PRESERVATION COMMISSION).

BE IT ORDAINED by the Metropolitan Council of the Parish of East Baton Rouge and City of Baton Rouge that:

Section 1. Title 7, Chapter 3 (Administrative Mechanisms), of the Code of Ordinances of the City of Baton Rouge and Parish of East Baton Rouge is hereby amended, so as to repeal and reserve Chapter 3 thereto;

Chapter 3
ADMINISTRATIVE MECHANISMS

Section 3.5 Historic Preservation

3.501 Purpose

A. This section is established to aid in the preservation and protection of buildings, sites, monuments, structures and areas of historic interest or importance through their protection, maintenance and development as historic landmarks and their recognition as such in the history and traditions of the state and nation; to establish and improve property values, and to foster the economic development of the areas affected.

3.502 Establishment of the Historic Preservation Commission

A. The official name of the Historic Preservation Commission shall be the "East Baton Rouge Parish Historic Preservation Commission" hereafter referred to as the "HPC." It shall be considered a "Historic District Commission" pursuant to Louisiana Revised Statutes §25:732.

B. The HPC shall be part of the planning functions of City-Parish Government, and shall be administratively supported by the staff and funded through the budget of the Office of the Planning Commission.

C. The Parish Attorney shall be the ex officio attorney for the HPC.

3.503 Historic Preservation Commission Membership, Terms, Vacancies, Qualifications and Committees

- A. The HPC shall consist of seven members, who shall be residents of the City-Parish. The members shall be appointed by majority vote of the Metropolitan Council. At least one member of the HPC shall be a resident or property owner of a locally designated historic district.
- B. Members of the HPC shall have a demonstrated interest, competence, or knowledge in historic preservation as evidenced by training or experience in architecture, history, architectural history, planning, archaeology, real estate development, construction or other related fields.
- C. The members shall hold office for a term of four years. None of the members of the HPC shall serve more than two consecutive full, four-year terms. Any vacancy in membership shall be filled for the unexpired term by appointment by the Metropolitan Council.
- D. The Metropolitan Council may remove any member of the HPC for cause, on written charges, after a public hearing. Any HPC member who fails to attend 75% of all regularly scheduled meetings in any calendar year is no longer eligible to serve on the HPC.
- E. A Chairman and Vice-Chairman shall be elected annually from the members of the HPC.
- F. All members shall serve without compensation but may be reimbursed for actual expenses incurred in the performance of their duties.
- G. Members shall not vote on issues in which they have a conflict of interest, consistent with State ethics requirements.
- H. The HPC may designate and the chairman may appoint, from among its members, various committees with such powers and duties as the HPC may have and prescribe.
- I. Each member shall complete at least one training session per year as required by the Louisiana Certified Local Government Program Guidelines.

3.504 Responsibilities of the HPC

A. Authority

The East Baton Rouge Parish Historic Preservation Commission shall be authorized to:

- 1. Protect, enhance, and perpetuate resources that represent distinctive and significant elements of the city's historical, cultural, social, economic, political, archaeological, and architectural identity;
- 2. Provide a review process for the preservation and appropriate development of the City-Parish's resources; and review applications for Certificates of Appropriateness on private property, and approve, approve

with conditions, or deny same in accordance with the provisions of this Ordinance;

3. Promote the use of resources for the education, pleasure and welfare of the people of the City of Baton Rouge/Parish of East Baton Rouge;
4. Advise any governmental agency of the State or local government, other than the governing body, prior to the initiation of any substantive change, modification, renovation, restoration or construction to or upon any historic site within the HPC's jurisdiction, pursuant to L.R.S. 25:742;
5. Prepare an inventory of all property within its jurisdiction having the potential for designation as historic property;
6. Recommend to the Metropolitan Council specific places, districts, sites, buildings, structures, objects, or works of art to be designated by ordinance as historic properties;
7. Recommend to the Planning Commission and Metropolitan Council that the designation of any historic place, district, site, building, structure, object, or work of art as historic property be revoked or removed;
8. Recommend to the City-Parish restoration or preservation guidelines of any properties acquired by the City-Parish Government;
9. Promote the acquisition by the City-Parish of preservation easements;
10. Make such investigation and studies of matters relating to historic preservation as the local governing body or the HPC may, from time to time, deem necessary or appropriate for the purposes of preserving historic resources;
11. Apply for State and federal funds for historic preservation, and make recommendations to the Metropolitan Council concerning the most appropriate uses of any funds acquired;
12. Consult with experts;
13. Maintain Certified Local Government status with the Division of Historic Preservation of the Department of Culture, Recreation, and Tourism;
14. Perform historic preservation activities as the official agency of the Baton Rouge City-Parish historic preservation program;
15. Recommend to the Metropolitan Council the acquisition or sale of historic properties or the acceptance by the

City-Parish of donations, grants, funds, or gifts of historic property on behalf of the HPC;

16. Recommend to the Metropolitan Council incentives that can be expected to encourage the preservation of the community's historic resources and provide a positive incentive to affected property owners;

17. Adopt rules for the transaction of its business. Copies of the rules, regulations, and guidelines shall be available in the Office of the Planning Commission.

B. Meetings

The HPC shall meet at least quarterly, and shall meet monthly whenever applications for public hearing COAs are pending. Additional meetings may be held on written request of any HPC member or the Mayor-President.

3.505 Local Historic Districts and Landmarks

A. Criteria for-Local Historic Districts and Landmarks

A local historic district or landmark should exhibit one or more of the following characteristics:

1. Historic or Cultural Significance. The proposed designation should:

- a. Have character, interest or value as part of the development, heritage, or cultural characteristics of East Baton Rouge Parish, Louisiana, or the United States;
- b. Be the site of an historic event;
- c. Be identified with a person or group who influenced society; or
- d. Exemplify the cultural, archaeological, economic, social, political, or historic heritage of the parish and its communities.

2. Architectural and Design Significance. The proposed designation should:

- a. Embody the distinctive characteristics of a type, period, theme, method of construction or indigenous materials and craftsmanship;
- b. Represent the work of a master architect, builder, engineer or that of significant artisans;
- c. Possess high artistic values and design integrity;
- d. Be a distinguishable entity in that it has not been altered to the extent that its original purpose or use is indiscernible;
- e. Be an established and familiar visual feature of the neighborhood and community or a place of natural or aesthetic interest that contributes to the cultural or historical development of the City-Parish, State or region.
- f. Be an outstanding example of a building, structure, object, or work of art representative of its era, or is one of the few remaining examples of past architectural styles.

B. Process

1. Application

a. Historic Districts

An historical society, neighborhood association, group of property owners, or the Mayor-President and the Metropolitan Council may apply for designation.

b. Historic Landmarks

An historical society, property owner, or the Mayor-President and the Metropolitan Council may apply for designation.

2. Building Survey

a. As part of the application, applicants shall provide a building survey that can be used to inform the public and to document and evaluate archaeological and historic sites for the purpose of understanding the architectural or cultural significance of all features within locally designated districts/landmarks. The survey shall follow the guidelines for nominating property to the National Register of Historic Places and shall include:

- (1) A physical description of the proposed district, including clearly defined boundaries for the proposed district, or the landmark, and
- (2) A description of its historic significance.

b. All structures, buildings, objects, works of art and cultural landscapes in the proposed district/landmark shall be surveyed and evaluated. Individual properties within historic districts shall be classified as:

- (1) Contributing Historic Element- A building that is fifty years old or more that is culturally significant or a worthy representative example of its period style of architecture.
- (2) Non-Contributing Element- A building that does not meet the criteria for a Contributing Historic Element listed above.

c. The Building Survey shall be submitted to the State Historic Preservation Office for review and comment prior to any further action on the application.

3. Community Survey for Local Historic District Nominations

Each property owner within the area proposed for designation as a local historic district shall be sent a questionnaire, which may be returned to the HPC, to ascertain the degree of interest in and support for the proposed designation by all property owners directly affected by the proposal. Such questionnaire shall be used for information purposes only and shall not be binding on the HPC, the Planning Commission or the Metropolitan Council. All questionnaires shall be mailed to the last known owner of the property, as shown on the most recent tax digest during the designation

process and at least thirty days prior to any adoption public hearings.

4. Adoption Procedure

a. Historic Preservation Commission Action

Following receipt of the State Historic Preservation Office comments on the Building Survey and the results of the Community Survey, the HPC consider the merits of designation in accordance with the provisions of this ordinance at a public hearing and shall recommend approval, approval with conditions, or denial of any request in a timely manner.

b. Planning Commission Action

Following receipt of the recommendation of the HPC, the Planning Commission shall hold a public hearing on the designation in the same manner as a rezoning.

c. Metropolitan Council Action

The Metropolitan Council shall make the final determination regarding a designation, considering the recommendations of the HPC and the Planning Commission, at a public hearing in the same manner as a rezoning.

5. Notification Procedures

Applications for Local Historic Districts and Landmarks shall be advertised and publicly noticed in the same manner as zoning changes. Applicants for the creation of new Local Historic Districts shall also publish a quarter-page advertisement in the official journal of the City-Parish displaying the boundaries of the proposed district and public hearing dates and locations.

6. Ordinance Requirements

Any ordinance designating a local historic district or landmark shall describe the exterior boundaries of the district or landmark to be designated, and establish the requirement that a Certificate of Appropriateness be obtained from the HPC prior to any change to the exterior of any part of a designated property that is visible from a public street.

7. Notification of Adoption of Ordinance for Designation

Within thirty (30) days following the adoption of the ordinance for designation by the Metropolitan Council, the owners of each designated historic property shall be given written notification of such designation by the Historic Preservation Commission; which notice shall notify said owners of the requirement to obtain Certificates of Appropriateness.

8. Moratorium on Applications for Alterations or Demolitions

If an ordinance for designation has been recommended by the HPC, the HPC shall have the power to require that the Building Official delay an application for alteration or demolition for properties under consideration for up to 120 days. Any building permit issued prior to the recommendation of an ordinance for designation may continue until its expiration.

3.506 Design Guidelines for local districts and landmarks

A. Intent

Design Guidelines identify the characteristic features of the district or landmark to be used in determining the compatibility of new construction or alterations with the character and architecture of the area. It is the responsibility of the HPC to ensure that changes in the local historic districts/landmarks reflect the appropriate East Baton Rouge Local Historic District/Landmark Guidelines.

B. Limitation on Use

Design Guidelines shall not be considered regulatory. They are intended to provide design guidance about elements and materials without compromising the character of structures, buildings, objects, or works of art within a local historic district.

C. Development

1. The Historic Preservation Commission, working with neighborhood residents, shall draft Design Guidelines consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties after designation of a district or landmark.
2. The HPC shall hold a public hearing in order to receive comments on the proposed Design Guidelines and, at the conclusion of that hearing, shall recommend to the Planning Commission their approval, approval with changes, or may defer action, determining additional work is necessary.
3. After receiving the HPC's recommendation, the Planning Commission shall consider the proposed Design Guidelines at a public hearing. Following the public hearing, the Planning Commission may approve the Design Guidelines, approve them with changes, or refer them back to the HPC for additional work.
4. Notice of all hearings on the Design Guidelines shall be published in at least three consecutive issues in the official journal and/or in a newspaper of general circulation within Baton Rouge. All such notices shall be published not less than 10 nor more than 20 days prior to the date set for the public hearing.

5. All amendments to the Design Guidelines shall follow the procedure set forth above.

3.507 Certificates of Appropriateness

A. When Required

A Certificate of Appropriateness (COA) shall be required for any exterior change that is visible from a public street to any part of a private property within a locally designated historic district or landmark, unless the change is determined to be ordinary maintenance and repair.

B. Approval Authority

Depending on the nature of the work proposed, a COA may be issued by the by the Planning Director and HPC Chairman through a staff-level approval process, or by the HPC through a public hearing process.

C. Submittal Requirements

Applications shall be submitted along with required documentation identified below to Planning Commission office.

1. New construction, Additions, and Alterations

Such drawings, photographs, or plans as may be required by the Planning Director to permit determination of conformity with the applicable Design Guidelines.

2. Demolition or Relocation

Unless the request for demolition is made by the City-Parish, in which case only the records depicting the current condition of the building and the Building Official's determination that the structure is unsafe are required, an applicant shall provide the following material:

- a. Records depicting the original construction of the structure, including drawings, pictures, and/or written descriptions, if available.
- b. Records depicting the current condition of the structure, including drawings, pictures, and/or written descriptions.
- c. The assessed value of the structure and property according to the two most recent tax assessments.
- d. Description of the proposed use of the property after demolition/relocation of structure.
- e. The current fair market value of the structure and property as determined by an independent licensed appraiser.

- f. A report regarding the nature, imminence, and severity of the threat, the cost of restoration of the structure, and the feasibility (including architectural and engineering analyses) of restoration of the structure, as performed by a licensed architect or engineer.

D. Criteria for Approval

The decision to approve a COA shall be based on the application meeting the following criteria:

1. New construction, Additions, and Alterations:

The proposed work is consistent with the Historic District/Landmark Design Guidelines applicable to the subject property.

2. Demolition or Relocation:

The HPC may approve a COA for demolition or relocation if the application satisfies at least one of the following criteria:

- a. The structure, building, object or work of art poses an imminent threat to public health or safety.

- b. No economically viable use of the property exists.

- c. The cost to repair the structure exceeds its appraised value.

E. Process

1. Staff level

- a. Certificates of Appropriateness for those changes that do not require building permits may be approved by the Planning Director and the Historic Preservation Commission Chairman without a public hearing and are not subject to application deadlines.

- b. Upon receipt of a staff level application, the Planning Commission staff shall notify HPC with a request to provide comment within three working days of receipt of notification.

- c. Within 14 working days of receipt of an application, provided that no objections are raised by HPC members during the comment period, the Planning Director and the Historic Preservation Commission Chairman may approve, modify or deny such application. If the Planning Director and the HPC Chairman fail to render a decision within this period or if any objections are raised by an HPC member during the comment period, the application must be heard by the

Historic Preservation Commission at its next scheduled meeting.

- d. The applicant for a staff level COA that is denied may appeal such denial to the full HPC for consideration at a public hearing by filing an appeal in writing to the office of the Planning Commission within ten working days from receipt of the denial.
- e. At the monthly HPC meeting the Planning Commission staff shall give a report regarding all staff level applications reviewed.
- f. Approved staff level COAs may be revised by the Planning Director and the HPC Chairman if the revision meets the requirements of a staff level application. If the proposed revision requires a building permit it shall be reviewed according to the procedure for public hearing applications.

2. Public Hearing

- a. Any application for an exterior change that will require a building permit, including all applications for demolition and relocation, may only be approved by the Historic Preservation Commission after a public hearing.
- b. The Historic Preservation Commission shall approve the application with or without conditions and issue a Certificate of Appropriateness if it finds that the proposed work is consistent with the approval criteria established in this ordinance.
- c. When the Historic Preservation Commission acts upon an application, it shall state its reasons for its decision and shall transmit a record of such actions and reasons, in writing, to the applicant.
- d. In cases where the application covers work that would require the issuance of a building permit, the rejection of the application for a Certificate of Appropriateness by the HPC shall be binding upon the Building Official or other administrative officer charged with issuing building permits and, in such a case, no building permit shall be issued.
- e. Failure by the HPC to render a decision within 60 days of the date of the first hearing by the HPC shall be taken to constitute approval of the application by the HPC, unless the applicant has requested that the commission delay its decision beyond the 60 day period otherwise required.

f. If the HPC approves an application over which objections are raised during the review process, whether by an HPC member or the public, the Certificate of Appropriateness shall not be issued for a period of 10 calendar days subsequent to the Commission's decision. If during that period an appeal is made to the Metropolitan Council, the decision of the Commission shall automatically be stayed pending Metropolitan Council review.

g. Effect of Denial of an Application for Demolition and Relocation.

If a Certificate of Appropriateness is denied for demolition/relocation, no further applications may be considered for the subject matter of the denied application for one year from the date of the final decision unless the HPC, by majority vote, waives the time limitation, finding that there are changed circumstances sufficient to warrant a new hearing.

h. Appeals

(1) Any person adversely affected by any determination made by the Historic Preservation Commission relative to the issuance or denial of a public hearing Certificate of Appropriateness may appeal such determination to the Metropolitan Council; the appeal must be filed with the Council Administrator's Office within 10 calendar days of the Historic Preservation Commission decision and shall be considered at the first Council meeting after the appeal has been received. The Metropolitan Council may approve, modify, or reject the determination made by the Historic Preservation Commission.

(2) Appeals of decisions of the Metropolitan Council relative to the issuance of COAs may be taken to the District Court of the City-Parish, in the manner provided by law.

F. Public Notice

1. Staff Level

The Planning Commission staff shall post a sign, the cost of which shall be paid by the applicant, on or adjacent to the property that is the subject of the request. If the property under consideration does not front on a public street, the sign shall be posted at the nearest public street. Such signs shall be posted by the Planning Commission staff within five working days of receipt of a complete application. The sign shall be a minimum size of 11 inches by 17 inches and shall include the following information printed in a minimum font size of 20:

a. the type of application,

b. the case number, and

c. the phone number and website for the City-Parish Planning Commission.

2. Public Hearing

a. Notice of the time and place of a scheduled public hearing on an application for a Certificate of Appropriateness shall be published in the official journal at least 10 days before such hearing.

b. All owners of real property as identified in the Planning Commission's current Geographic Information System in within 300 feet of the boundaries of the subject property of the request shall be sent a mailed notice regarding the date and place of the public hearing not less than (15) days in advance of the hearing. Failure of owners to receive this notice shall in no way affect the validity of the action taken by the HPC.

c. The Planning Commission staff shall post a sign, which meets all of the requirements of signs posted for staff level applications with the addition of the date of the public hearing, on or adjacent to the property that is the subject of request. If the subject property does not front on a public street, the sign shall be posted at the nearest public street.

G. Certificate of Appropriateness Void If Work Not Commenced

A Certificate of Appropriateness shall become void unless the approved work is commenced within 12 months of the date of issuance, but may be extended by the Planning Director in consultation with the HPC chairman for up to two one-year periods for good cause shown.

H. Relation to Other Ordinances

The issuance of a Certificate of Appropriateness shall not relieve an applicant for a companion building permit, special use permit, variance, or other authorization from compliance with any other requirement or provision of the laws of the city concerning zoning, construction, repair, or demolition. In all such cases, applicants are required to obtain a Certificate of Appropriateness prior to obtaining other required approvals as other agencies will require the decision of the HPC in in order to make their subsequent decisions.

I. Undue Hardship

Where, by reason of unusual circumstances, the strict application of any provision of the regulations governing Certificates of Approval would result in exceptional practical difficulty or undue hardship upon any owner of a specific property, the HPC, in acting on applications, shall have the power to vary or modify strict adherence to these provisions, or to interpret their meaning, so as to relieve such difficulty or hardship; provided such modifications or

interpretations remain in harmony with the general purpose and intent of said provisions, so that the architectural or historical integrity, or character of the property shall be conserved, and substantial justice done. In granting such modifications, the HPC may impose reasonable and additional stipulations and conditions as will, in its judgment, best fulfill the purpose of this Ordinance.

J. Exceptions

1. Temporary fences on private property shall not require a Certificate of Appropriateness provided that the property is located on or near a parade route. Such temporary fences shall be no more than five feet in height. Temporary fences shall only be erected no more than seven days prior to the scheduled parade and removed within two days after the conclusion of the parade, unless more than one parade is scheduled within a two week period for the particular route on which the property is located, in which case the fence may remain no longer than two days after the last scheduled parade. In no instance shall the fencing be within the public right-of-way or restrict access along streets or sidewalks.
2. Ordinary maintenance or repair shall not require a COA.
3. The Planning Director may authorize work which would require a COA and is deemed necessary on an emergency basis for the preservation of a structure. Such authorization shall not constitute issuance of a COA, and the property owner must apply for a COA in a timely manner after such work is commenced. Failure to apply for a COA within 10 working days of the Planning Director's authorization for such work shall constitute a violation of this ordinance.

3.508 Demolition by neglect

A. Prevention

1. Demolition by Neglect is a serious problem affecting historic communities and neighborhoods throughout the country. It refers to the process of deterioration that occurs when routine maintenance or major repair is not performed to the extent that preservation and future restoration is jeopardized. Demolition by Neglect does not refer to purely cosmetic issues or minor deferred maintenance, or to interior conditions. It is not intended to dictate or control the aesthetics of a local historic district/landmark, but to ensure the safety and well-being of the district and landmark.
2. All locally designated historic landmarks and all contributing structures identified by the official historic survey located in a local historic district, shall be preserved against decay, deterioration, and kept

free from certain structural defects by the owner thereof or such person, persons, or entities who may have custody or control thereof.

3. Demolition by neglect means neglect in maintaining, repairing, or securing a historic landmark or a contributing structure in a local historic district that results in substantial deterioration of an exterior feature of the building or structure or the loss of structural integrity of the building or structure that results in deterioration of the structure and threatens the preservation of the structure.
4. The ordinance which created the Historic Preservation Commission entrusts the Commission with insuring that contributing structures located within the local historic district and landmarks designated by the Commission are not allowed to be demolished through neglect of the owner. However, if the property owner has submitted a Certificate of Appropriateness application, then the Historic Preservation Commission shall not initiate demolition by neglect proceedings until Certificate of Appropriateness is denied and the denial is final.

B. Standards

1. The exterior features of any building or structure found to have defects (as outlined below) located within a local historic district shall be preserved by the owner or such other person who may have legal possession, custody, and control thereof against decay and deterioration and kept free from structural defects. The owner, or other person having such legal possession, custody, and control, shall upon written request by the City stabilize or repair such exterior features if they are found to be deteriorating, or if their condition is contributing to deterioration of the property or the district, including but not limited to any of the following defects:
 - a. Deterioration of exterior walls, foundations, or other vertical support that causes leaning, sagging, splitting, listing, or buckling where such condition threatens the structural integrity of the structure.
 - b. Deterioration of flooring or floor supports, roofs, or other horizontal members that causes leaning, sagging, splitting, listing, or buckling where such condition threatens the structural integrity of the structure.
 - c. Deterioration of external chimneys that causes leaning, sagging, splitting, listing, or buckling where such condition threatens the structural integrity of the chimney.
 - d. Deterioration or crumbling of exterior plasters or mortars where there is evidence that such condition has

allowed deterioration of structural elements that threaten the structure's integrity.

- e. Ineffective waterproofing of exterior walls, roofs, and foundations, including broken windows or doors where there is evidence that such condition has allowed deterioration of structural elements that threaten the structure's integrity.
- f. Defective protection or lack of weather protection for exterior wall and roof coverings, including lack of paint, or weathering due to lack of paint or other protective covering where there is evidence that such condition has allowed deterioration of structural elements that threaten the structure's integrity.
- g. Rotting, holes, and other forms of decay where there is evidence that such condition has allowed deterioration of structural elements that threaten the structure's integrity.
- h. Deterioration of exterior stairs, porches, handrails, window and door frames, cornices, entablatures, wall facings, and architectural details that causes delamination, instability, loss of shape and form, or crumbling where there is the possibility that the architectural details will be totally lost or destroyed.
- i. Deterioration of contributing accessory structures.

C. Procedure for enforcement

1. The Historic Preservation Commission may file a petition listing specific defects with the Department of Public Works Inspection Division indicating that a building's condition falls under the Commission's criteria of Demolition by Neglect. Whenever a petition is filed with the Department of Public Works Inspection Division a preliminary inspection must be performed within seven (7) days of the date of the petition.
2. To proceed with the citation process the Historic Preservation Commission must vote by a majority to make a preliminary finding of Demolition by Neglect and requesting an inspection. If, thereafter, a preliminary determination is made by the Commission, the owner is notified by certified mail of the defects in the building. The owner is given thirty (30) days in which to respond to the preliminary determination or obtain a Certificate of Appropriateness for the corrective work. If a Certificate of Appropriateness is issued at this point, it will detail the specific work which is necessary to correct the Demolition by Neglect conditions, and a time limit for work to begin and be completed is set. If the applicant deems that the time limit is unreasonable, they will provide details regarding the unreasonableness to the Historic

Preservation Commission who will subsequently by majority vote consider extending the time. If the preliminary investigation does not substantiate the petition, the petition is resolved and no action will be taken.

3. If the owner of the property receives the letter regarding the preliminary determination, but fails to respond, the matter is referred to the Historic Preservation Commission for a citation hearing. If the owner fails to receive the letter regarding the preliminary determination after two attempts, the building is posted with a notice of the violation in accordance with the provisions of the Ordinance, and a public hearing on the citation is scheduled.
4. At the public hearing the Commission may issue a citation to the owner of the property for failure to correct the Demolition by Neglect conditions. The citation is made by a vote of the majority of the Commission on a motion recognizing the condition of the building and the owner's failure to correct the defects. The owner is invited to the public hearing to address the Commission's concerns and to show cause why a citation should not be issued. The Commission may also defer the matter to give the owner more time either to correct the deficiencies, make a proposal for repairs, or perhaps sell the property.
5. If the owner is cited for the condition of Demolition by Neglect of the property, he is given till the next regularly scheduled Historic Preservation Commission meeting to respond with a proposal to correct the defects.
6. If a Certificate of Appropriateness is issued at this point, it shall be worded to place specific constraints on the owner for initiating and completing the work.
7. Any person adversely affected by a determination that a structure is being demolished by neglect made by the Historic Preservation Commission may appeal such determination to the Metropolitan Council. The appeal must be filed with the Council Administrator's Office within 10 days after notification is sent. The Metropolitan Council may approve, modify, or reject the determination made by the Historic Preservation Commission by a favorable vote of three-fifths (3/5) of the entire membership of the Metropolitan Council.

3.509 Violations

- A. Any person who violates this section, with the exception of unauthorized tree cutting, damaging or removal and demolitions, shall be cited for a separate offense for each

day during which the violation is continued, from the first day the unlawful act was committed until either a Certificate of Appropriateness is obtained or the property is restored to the condition it was in immediately prior to the violation.

B. Removing, Cutting, Damaging or Destroying Trees

Any owner, agent, lessee, or other person acting for or in conjunction with him, who directly or indirectly cuts, fells, damages, destroys or removes any tree or who applies or causes to be applied a substances which damages or destroys a tree, without first going through the process to obtain approval for a Certificate of Appropriateness, shall be in violation of this Section. The provisions of this Section shall not apply to an act of God. The provisions of this Section shall not apply to the cutting, felling, destroying or removal of a tree by recognized employees or agents of the City-Parish acting pursuant to authority.

C. Stopping Work Commenced Without Permit

A stop work order shall be issued by the Building Official on work not in compliance with an approved Certificate of Appropriateness. Any such work shall be considered a violation of this chapter subject to any and all appropriate fines and penalties.

D. Injunctions

Whenever any person has engaged in or is about to engage in any act or practice which constitutes or will constitute a violation of this ordinance, the HPC, through the Parish Attorney's office, may make an application to the appropriate court for an order enjoining such act or practice, or requiring such person to refrain from such prospective violation or to remedy such violation by restoring the affected property to its previous condition. Upon a showing by the HPC or the city that such person has engaged or is about to engage in such act or practice, a permanent or temporary injunction, temporary restraining order, or other appropriate order shall be granted without bond.

E. Penalty Provisions

The following penalty provisions are to be applied by the appropriate court in response to applications filed by the Parish Attorney relative to the enforcement of a violation of this chapter.

1. Any owner, agent, lessee, or other person acting for or in conjunction with him, who, with the exception of unauthorized tree cutting, damaging or removal and demolitions, violates the ordinance or law or rules, regulations, or decision of the Historic Preservation Commission, shall for each offense be fined not less than

\$100 dollars, and each day that a violation continues constitutes a separate offense.

2. Any owner, agent, lessee, or other person acting for or in conjunction with him, who cuts, fells, damages, destroys or removes any tree without having been issued a Certificate of Appropriateness, shall be fined in an amount equal to one and one-half times the monetary value of the tree damaged, destroyed or removed, based on "diameter at breast height" ("dbh") calculated from the stump, and applying the most current standards of the City Tree & Landscape Manager and based upon the historical significance of the tree as designated in the historic building survey of the district. If the violator has ground the stump and therefore prevented a "dbh" calculation, then the penalty shall be three times the monetary value of the tree. Trees which have been damaged or removed shall be replaced with trees of a species approved by the Director of Development, and such replacement cost shall be paid by the violator.

3. Any owner, agent, lessee, or other person acting for or in conjunction with him, who demolishes a structure or edifice without having been issued a Certificate of Appropriateness, shall be fined a single fine of not less than \$5,000 nor more than \$100,000 based upon the historical significance of the structure or edifice as designated in the historic building survey of the district.

Section 2. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this ordinance, or the invalidity of the application thereof to any person or circumstances shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed.