

**ORDINANCE NO. 3-05**  
**FOR LOUISIANA CERTIFIED LOCAL GOVERNMENT**

AN ORDINANCE TO CREATE A PRESERVATION (OR HISTORIC DISTRICT) COMMISSION; TO ESTABLISH THE MEMBERSHIP, OFFICERS, TERMS OF OFFICE OF ITS MEMBERS AND DUTIES OF SUCH COMMISSION: PROVIDING A PROCEDURE FOR ADOPTION OF ORDINANCES TO ESTABLISH PRESERVATION DISTRICTS AND TO DESIGNATE ARCHAEOLOGICAL, ARCHITECTURAL, CULTURAL, AND HISTORICAL LANDMARKS AND LANDMARK SITES: PROVIDING THAT THE PRESERVATION COMMISSION SHALL REVIEW PROPOSED ALTERATION, CONSTRUCTION, DEMOLITION, DEMOLITION BY NEGLECT, AND RELOCATION IN PRESERVATION DISTRICTS AND ON LANDMARKS AND LANDMARK SITES: PROVIDING THE CRITERIA FOR EVALUATING SUCH PROPOSED ACTIVITIES: PROVIDING STANDARDS AND PROCEDURES TO PREVENT DEMOLITION OF LANDMARKS BY INTENT OR NEGLECT: PROVIDING A PROCEDURE FOR THE ISSUANCE OF CERTIFICATES OF APPROPRIATENESS: AND ACCOMPLISHING RELATED PURPOSES.

**SECTION I-STATEMENT OF PURPOSE**

The village hereby recognizes that the Village of Grand Cane is known for its collection of historic public, commercial, and residential buildings. The village's qualities have proved increasingly attractive to residents, business interests, and tourists.

As a matter of public policy the Village aims to preserve, enhance, and perpetuate those aspects of the village and its setting that have historical, cultural, architectural and/or archaeological merit. Such preservation activities will promote and protect the health, safety, prosperity, education, and general welfare of the people living in and visiting the Village of Grand Cane.

More specifically, this historic preservation ordinance is designed to achieve the following goals:

- A. Protect, enhance and perpetuate resources, which represent distinctive and significant elements of the village's historical, cultural, social, economic, political, archaeological, and architectural identity,
- B. Insure the harmonious, orderly, and efficient growth and development of the Village of Grand Cane,

- C. Strengthen civic pride and cultural stability through neighborhood conservation,
- D. Stabilize the economy of the villages through the continued use, preservation, and revitalization of its resources,
- E. Protect and enhance the village's attractions to tourists and visitors and the support and stimulus of business and industry thereby provided;
- F. Promote the use of resources for the education, pleasure, and welfare of the people of the Village of Grand Cane,
- G. Provide a review process for the preservation and appropriate development of the village's resources.

## **SECTION II-DEFINITIONS**

Unless specifically noted otherwise, the following definitions are standard throughout this ordinance:

Alteration: Any change to a resource because of construction, repair, maintenance, or other means. Alterations shall include, but not be limited to, re-pointing of brickwork, sandblasting, and the removal of paint by chemical or other means.

Applicant: The owner of record of a resource; the lessee thereof with the approval of the owner of record in notarized form; or a person holding a "bona fide" contract to purchase a resource.

Appurtenance: A feature related to a parcel of land or to a building, structure, object, site, or a related group thereof. The term includes, but is not limited to, buildings, structures, objects, sites, landscaping features, walls, fences, light fixtures, steps, paving; sidewalks, shutters, awnings, solar panels, satellite dishes, and signs.

Building: A structure created to shelter any form of human activity, such as a house, garage, barn, church, hotel, or similar structure.

Certificate of Appropriateness: A signed and dated document evidencing the approval of the commission for work proposed by an applicant. The commission may, in appropriate situations, limit the period for which a certificate of appropriateness is valid.

Certified Local Government (CLG): A federal program authorized by the National Historic Preservation Act 16 U. S. C. 470 et seq., that provides for the participation of local governments in a federal/state/local government preservation partnership. The federal law directs the State

Historic Preservation Officer of Louisiana and the Secretary of the Interior to certify local governments to participate in this partnership. Specific requirements for the program are published in Louisiana available from the Louisiana State Historic Preservation Officer.

Village: The Village of Grand Cane as represented by the Mayor and Village Board.

Color: Paint color shall not be regulated, but an application must be filed for a Certificate of Appropriateness in order to afford the Commission the opportunity to inform the applicant of appropriate colors for the building.

Commission: The Grand Cane Preservation Commission, a local historic preservation commission created pursuant to Louisiana enabling legislation: Louisiana Revised Statutes R. S.25: 731-745 and as amended.

Construction: The addition or placement of any improvement onto a resource.

Demolition: The complete or partial removal of buildings, structures, objects, or sites, including appurtenances.

Demolition by Neglect: Improper maintenance or lack of maintenance of any resource which results in substantial deterioration of the resource and threatens its continued preservation.

Exterior Features: Exterior features of resources kind, and texture of the building material and the type and style of all windows, doors, and appurtenances.

Improvement: An appurtenance developed by human design, including, but not limited to, buildings, structures, objects, landscape features, and manufactured units, like mobile homes, boats, docks, carports, and storage buildings.

Landmark: A building, structure, or object, and its appurtenances and historically associated land or water, designated by the commission and approved by the village through an ordinance, which possess particular architectural, cultural, or historic significance by meeting at least one of the following criteria source:

- A. Exemplifies or reflects the broad cultural, political, economic, or social history of the nation, region, state, parish or village; or
- B. Is identified with historic personages or with important events in national, state or local history or
- C. Embodies distinguishing characteristics of an architectural type or is a specimen inherently valuable for the study of a period, style, method of construction, or use of indigenous

materials or craftsmanship; or

- D. Is representative of the notable work of a master builder, designer, or architect whose individual ability has been recognized or who influenced his age.

Landmark Site: An unimproved or improved parcel of ground designated by the commission and approved by the village through an ordinance, which possesses particular archaeological, architectural, geological, or historic significance. A landmark site differs from a landmark in that the physical location, not the building, structure, or object, possesses primary significance. For the purposes of this ordinance, a landmark site encompasses prehistoric sites on unimproved or improved land. Landmark sites meet at least one of the following criteria:

- A. Exemplifies or reflects the broad cultural, political, economic, or social history of the nation, region, state, parish, or village; or
- B. Is identified with historic personages or with important events in nation, regional, state or local history; or
- C. Embodies distinguishing characteristics of a landscape type or is a specimen inherently valuable for the study of a period, style, method of construction, or use of indigenous material or craftsmanship; or
- D. Has yielded, or may be likely to yield, information important in prehistory or history. A "Landmark Site" may be culturally significant natural feature other than landscape.

Landscape Feature: Any improvement, natural formation, or vegetation including, but not limited to: shrubbery, trees, plantings, outbuildings, walls, courtyards, fences, swimming pools, planters, gates, street furniture, exterior lighting, and site improvements, including but not limited to, subsurface alterations, site regrading, fill deposition, and paving.

National Register of Historic Places: A federal list of cultural resources worthy of preservation, authorized under the National Historic Preservation Act of 1966 as part of a national program to coordinate and support public and private re-efforts to identify, evaluate, and protect the nation's historic and archaeological resources. The National Register Program is administered by the commission, by the State Historic Preservation Office, and by the National Park Service under the Department of the Interior. Significant federal benefits may accrue to owners of properties listed or determined eligible for listing in the National Register.

Object: A material thing of functional, cultural, historical, or scientific value that may be, by

nature or design, movable, yet related to a specific setting or environment.

Ordinary Repairs or Maintenance: Work done to prevent deterioration of a resource or any part thereof by returning the resource as nearly as practical to its condition prior to such deterioration, decay, or damage and by reusing, where possible, original materials.

Owner of Record: The owner of a parcel of land, uimproved or improved, reflected on the village tax roll and in parish deed records.

Preservation (or Historic) District: A district listed on the National Register of Historic Places or a district designated by the commission and approved by the village through an ordinance, which contains a geographically definable area, urban or rural, possessing a significant concentration of sites, buildings, structures, or objects associated by past events or by plan or physical development, and which meets at least one of the following criteria:

- A. Exemplifies or reflects the broad cultural, political, economic, or social history of the nation, state, parish, or village; or
- B. Is identified with historic personages or with important events in national, state, or local history; or
- C. Embodies valuable for the study of periods, styles, methods of construction, or uses of indigenous materials or craftsmanship; or
- D. Is representative of the notable work of master builders, designers, or architects whose individual abilities have been recognized or who influenced their eras.

Relocation: Any changes in the location of a building, object, or structure in its present setting or to another setting.

Resource: A landmark, landmark site, and all land or water within a preservation district, together with the appurtenances and improvements, if any. The term resource includes, but is not limited to, separate districts, buildings, districts, structures, sites, objects, landscape features, and related groups thereof

Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating

Historic Buildings: A federal document stating standards and guidelines for the appropriate rehabilitation and preservation of historic buildings.

Site: The location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself maintains historical or archaeological value regardless of the value of existing buildings,

structures, or objects.

State Historic Preservation Office: Division of Historic Preservation, Office of Cultural Development, Department of Culture, Recreation and Tourism, State of Louisiana.

State Historic Preservation Officer: Assistant Secretary of the Office of Cultural Development, Department of Culture, Recreation, and Tourism.

Structure: A work made up of interdependent and interrelated parts in a definite pattern of organization constructed by man. The term includes but is not limited to, engineering projects, earthworks, boats, barges, and bridges.

Unreasonable Economic Hardship: The inability of an owner to obtain a reasonable return or a reasonable beneficial use from a resource as required by the United States Supreme Court in Penn Central Transportation Company vs. New York City, 438 U. S. 104 (1978), and subsequent decisions.

Warehouse: Structure used for the reception and storage of goods and merchandise, temporarily or for a length of time.

### **SECTION III-GRAND CANE PRESERVATION COMMISSION, COMPOSITION, AND TERMS**

By virtue of Louisiana enabling legislation, R. S. 25:731-745 and as amended.

There is hereby created the Grand Cane Preservation Commission.

All members of the commission are appointed by the village and shall serve for designated terms and may be reappointed. All members of the commission shall serve for terms of four (4) years and shall be eligible for reappointment. The first commission shall have staggered terms: 1/4 with one (1) year terms, 1/4 with two (2) year terms, 1/4 with three (3) year terms, and 1/4 with four (4) year terms. All commission members shall have a demonstrated knowledge of or interest, competence, or expertise in historic preservation. To the extent available in the community, the village shall appoint professional members from the primary historic preservation-related disciplines of architecture, history, architectural history, or archaeology or from secondary historic preservation-related disciplines such as urban planning, American studies, American civilization, cultural geography, cultural anthropology, interior design, law, and related fields. In conformity with the "Louisiana Guidelines for the Certified Local Government Program," the village shall document a "good faith effort" to locate professionals to serve on the commission before appointing lay members. The commission shall also seek the

advice, as needed, of professionals not serving on the commission.

- A. The village shall publish at least one notice in a newspaper in its jurisdiction to solicit responses from citizens who are professionals in the related fields of historic preservation and who are interested in serving on the commission. The village may contact known professionals and interested laypersons and invite submission of their qualifications in written resume form.
- B. The village shall provide two (2) weeks (10 working days) for responses. Respondents shall submit, in written resume form, information concerning their demonstrated interest, competence, knowledge, or expertise. Such information should include, but is not limited to, education and professional background, membership in appropriate preservation organizations, subscriptions to suitable professional publications, volunteer work, attendance at workshops and seminars, and other relevant experience.
- C. When the village has collected adequate information concerning the potential appointees to the commission, it shall decide, with the assistance of the State Historic Preservation Office, if desired, which candidates can be considered professionals and which are most qualified for appointment to the commission.

#### **SECTION IV-POWERS OF THE COMMISSION**

In order to preserve, promote, and develop the distinctive appearance and the historic resources of the Village of Grand Cane and to accomplish the purposes set forth in Louisiana R. S. 25:731-745 as amended, and in this ordinance:

- A. The commission shall conduct or cause to be conducted a continuing study and survey of resources within the village. This work may be carried out through, or in conjunction with, national, state, or local government agencies, suitable preservation organizations, and consultants to the village.
- B. The commission shall recommend to the village the adoption of ordinances designating preservation districts, landmarks, and landmark sites. All properties presently listed in the National Register of Historic Places and located within the jurisdiction of the village, whether publicly or privately owned, are hereby designated as landmarks, landmark sites, and preservation district, whichever category is appropriate, with suitable boundaries, which shall be similar to but not smaller than the boundaries for National Register purposes. The

commission shall promptly notify the owners of such properties by public notice or in writing that the provision has become applicable to them.

- C. As buildings, structures, objects, sites, and historic districts within the jurisdiction of the Village of Grand Cane are listed in the National Register of Historic Places, or are officially determined eligible for such listing in writing by the State Historic Preservation Office, they shall automatically come under the jurisdiction of the Grand Cane Preservation Ordinance for a six (6) month period so that their designation can be considered. During this period, such properties shall be subject to all provisions of this ordinance otherwise applied to resources. The commission shall promptly notify the owners of such properties, in writing or by public notice, that this provision has become applicable to them.
- D. The commission may recommend that the village recognize sub-districts within any preservation district, in order that the commission may adopt specific guidelines for the regulation of properties within such a sub-district.
- E. The commission shall review applications proposing construction, alteration, demolition, or relocation of any resource.
- F. The commission shall grant or deny certificates of appropriateness, and may grant certificates of appropriateness contingent upon the acceptance by the applicant of specified conditions. After the adoption of the written guidelines approved by the village, the commission may condition its approval of a certificate of appropriateness on the posting of a performance bond by an applicant in order to guarantee the applicant's financial ability to complete the project as proposed.
- G. The commission shall not consider interior arrangements of buildings and structures.
- H. The commission, subject to the requirements of the village, is authorized to apply for, receive, hold, and spend funds from private and public sources, in addition to appropriations made by the village for the purpose of carrying out the provisions of this ordinance.
- I. The commission is authorized to employ such staff or contract with technical experts or other persons as may be required for the performance of its duties and to obtain the equipment, supplies, and other materials necessary for its effective operation, all subject to approval of the village.
- J. The commission is authorized, solely in the performance of its official duties and only at reasonable times, to enter upon private land for the examination or survey thereof



## **SECTION V-RULES OF PROCEDURE**

To fulfill the purposes of this ordinance and carry out the provisions contained therein:

- A. A majority of the members of the commission must vote in agreement to constitute any valid action of the commission.
- B. The commission annually shall elect from its membership a chairman and vice-chairman. It shall select a secretary from its membership or its staff. If neither the chairman nor the vice-chairman attends a particular meeting, the remaining members shall select an acting chairman from the members in attendance at such meeting.
- C. Such rules of procedure shall be a matter of public record.
- D. The commission shall develop, design and review guidelines for determining appropriateness as generally set forth in Section VII of this ordinance. Such criteria shall insofar as possible be consistent with local, state and federal guidelines and regulations, including, but not limited to, building safety and fire codes and the Secretary of the Interior's Standards for Rehabilitation.
- E. The commission shall keep minutes and records of all meetings and proceedings including voting records, attendance, resolutions, findings, determinations, and decisions. All such material shall be a matter of public record.
- F. The commission shall establish its own regular meeting time; however, the first meeting shall be held within thirty (30) days of the adoption of this ordinance and regular meetings shall be scheduled at least once every three (3) months. The chairman or any two (2) members may call a special meeting to consider an urgent matter.

## **SECTION VI-DESIGNATION OF LANDMARKS, LANDMARK SITES, AND HISTORIC DISTRICTS**

By ordinance, the village may establish landmarks, landmark sites, and preservation districts within the area of its jurisdiction. Such landmarks, landmark sites, or preservation districts shall be designated following the criteria as specified in Section II.

- A. The commission shall initiate a continuing and thorough investigation of the archaeological, architectural, cultural, and historic significance of the village's resources. The findings shall be collected in a cohesive format, made a matter of public record, and made available for

public inspection. The commission shall work toward providing complete documentation for previously designated preservation districts, which would include:

1. An inventory of all property within the boundary of the district, with photographs of each building and an evaluation of its significance to the district. Building evaluations are to be used only as a reference or guide and shall not be used as the determining factor for issuing or denying a certificate of appropriateness.
  2. An inventory, which would be in a format consistent with the statewide inventory of the Louisiana Division of Historic Preservation (SHPO).
- B. The commission shall advise the village on the designation of preservation districts, landmarks, or landmark sites and submit or cause to be prepared ordinances to make such designation.
- C. A resource or resources may be nominated for designation upon motion of three members of the commission or by an organization interested in historic preservation or by an owner of the property being nominated. A nomination shall contain information as specified by the commission. The commission must reach a decision on whether to recommend a proposed nomination to the village within six (6) months in the case of a preservation district and two (2) months in the case of either a landmark or landmark site.
- D. If the commission votes to recommend to the village the designation of a proposed resource, it shall promptly forward to the village its recommendation, in writing, together with an accompanying file.
- E. The commission's recommendations to the village for designation of a preservation district shall be accompanied by:
1. A map of the preservation district that clearly delineates the boundaries.
  2. A verbal boundary description and justification.
  3. A written statement of significance for the proposed preservation district.
- F. After the nomination of a resource to the commission for possible local designation, the resource shall be fully protected by the provisions of this ordinance for a period of six months, as if it were already designated.
- G. With the adoption of this ordinance, any property designated under a previous village ordinance, shall remain designated.
- H. After the adoption of this ordinance, no preservation district or districts shall be designated

until the Louisiana Division of Historic Preservation (SHPO), acting through such agent or employee as may be designated by its director, shall have made an analysis of, and recommendations concerning, the proposed district boundaries. Failure of the Division (SHPO) to submit its analysis and recommendation to the village within sixty (60) days after a written request for such analysis has been mailed to it shall constitute approval; and the village may at any time thereafter take any necessary action to adopt or amend its ordinance.

- I. If a proposed ordinance is to designate a landmark or landmark site, it may be presented to the village with a recommendation that it be adopted without submission to the Louisiana Division of Historic Preservation (SHPO).
- J. The village shall conduct a public hearing, after notice; to discuss the proposed designation and boundaries thereof. A notice of the hearing shall be published once a week for at least three (3) consecutive weeks in at least one (1) newspaper published in the village. If a newspaper is not published in the village, then the notices shall be published in a paper published in the parish. The date fixed in the resolution for the public hearing and the last publication shall be made not more than seven (7) days prior to such date.
- K. Within sixty (60) calendar days after the public hearing held in connection herewith, the village should adopt the ordinance as proposed, reject it entirely, or adopt the ordinance with modifications.
- L. Furthermore, the commission shall notify, as soon as is reasonably possible, the appropriate state, parish, and municipal agencies of the official designation of all landmarks, landmark sites, and preservation districts. An updated list and map shall be maintained by such agencies and made available to the public.
- M. Previously designated properties may have their designations removed only following the procedures for designation as set forth in this ordinance.

## **SECTION VII-CERTIFICATES OF APPROPRIATENESS**

No exterior feature of any resources shall be altered, relocated, or demolished until after an application for a certificate of appropriateness of such work has been approved by the commission, likewise, no construction which affects a resource shall be undertaken without a certificate of appropriateness. Therefore,

- A. The commission shall serve as a review body with the power to approve and deny

applications for certificates of appropriateness.

- B. In approving and denying applications for certificates of appropriateness, the commission shall seek to accomplish the purposes of this ordinance.
- C. A certificate of appropriateness shall not be required for work deemed by the commission to be ordinary maintenance or repair of any resource.
- D. All decisions of the commission shall be in writing and shall state the findings of the commission, its recommendations and the reasons therefore.
- E. Expiration of a Certificate of Appropriateness: A certificate of appropriateness shall, unless otherwise specified by the commission, expire twenty-four (24) months after its issuance EXCEPT THAT a certificate shall expire if work has not begun within six (6) months of its issuance. When a certificate has expired, an applicant may seek a new certificate.
- F. Resubmission of Applications: Twelve months after denial of an application for a certificate of appropriateness, the application may be resubmitted without change. A changed application may be resubmitted at any time.
- G. Certificates of Appropriateness may be issued for distinct and separate phases of an ongoing project.
- H. No certificate may be issued for any building which sole use is a warehouse.

#### **SECTION VIII-CRITERIA FOR ISSUANCE OF CERTIFICATES OF APPROPRIATENESS**

The commission and the village shall use the following criteria in granting or denying certificates of appropriateness.

##### **A. General Factors:**

1. Architectural design of existing building, structure, or appurtenance and proposed alteration;
2. Historical significance of the resource;
3. General appearance of the resource;
4. Condition of the resource;
5. Materials composing the resource;
6. Size of the resource;
7. The relationship of the above factors to, and their effect upon the immediate surroundings and, if within a preservation district, upon the district as a whole and its

architectural and historical character and integrity.

B. New Construction:

1. In advance of new construction, steps shall be taken to insure evaluation of possible archaeological resources.
2. The following aspects of new construction shall be visually compatible with the buildings and environment with which the new construction is visually related, including but not limited to: the height, the gross volume, the proportion between width and height of the facade(s), the proportions and relationship between doors and windows, the rhythm of solids to voids created by openings in the facade, the materials, the textures, the colors, the patterns, the trims and the design of the roof.
3. Existing rhythm created by existing building masses and spaces between them shall be preserved.
4. The landscape plan shall be compatible with the resource, and it shall be visually compatible with the environment with which it is visually related. Landscaping shall also not prove detrimental to the fabric of a resource, or adjacent public or private improvements like sidewalks and walls.
5. No specific architectural style shall be required.

C. Exterior Alteration:

1. All exterior alterations to a building, structure, object, site, or landscape feature shall be compatible with the resource itself and other resources with which it is related, as is provided in Section VIII, A and B, and the original design of a building, structure, object, or landscape feature shall be considered in applying these standards.
2. Exterior alterations shall not affect the architectural character or historic quality of a landmark and shall not destroy the significance of landmark sites.

D. Demolition:

In considering an application for the demolition of a landmark or a resource within a preservation district, the following shall be considered,

1. Individual architectural, cultural, and/or historical significance of the resource.
2. Importance or contribution of the resource to the architectural character of the district, and where appropriate, the detrimental impact of the resource on the architectural character of the district.

3. Importance or contribution of the resource to neighboring property values and, where appropriate, the detrimental impact of the resource on neighboring property values.
4. The difficulty or impossibility of reproducing such a resource because of its texture, design, material or detail.
5. Following recommendation for approval of demolition, the applicant must seek approval of plans for the property, as set forth in Section VIII, B, prior to receiving a demolition permit and other permits. When such plans contemplate new construction, the applicant shall provide the commission with plans for this purpose, which shall include, but shall not be limited to, project concept, preliminary elevations and size plans, and completed working drawings for at least the foundation plan which will enable the applicant to receive a permit for foundation construction.
6. Applicants that have received a recommendation for demolition shall be permitted to receive such demolition permit without additional commission action on demolition, following the commission's recommendation of a permit for new construction. Permits for demolition and construction shall be issued simultaneously if requirements of Sections VIII, B, are met and the applicant provides financial proof of his ability to complete the project.
7. When the commission recommends approval of demolition of a resource, a permit shall not be issued until all plans for the site have received approval from all appropriate village boards, commissions, departments, and agencies.

#### **SECTION IX-PROCEDURES FOR ISSUANCE OF CERTIFICATES OF APPROPRIATENESS**

- A. Whenever any application for a certificate of appropriateness is filed with the commission, the commission shall immediately notify the village building official that the application has been filed. Similarly, whenever the village building official becomes aware that an application has been filed for a permit affecting a property under the jurisdiction of the preservation commission, the village building official shall immediately notify the commission chairman or vice-chairman, if the chairman is unavailable, that such an action has been filed.
- B. The commission shall have the authority to determine when a filed application is complete and contains all required information. An application deemed incomplete by the commission shall not be considered to have been filed for the purposes of this ordinance. The commission

shall develop standard application forms and its written guidelines shall specify what information an applicant shall attach to each form.

C. The applicant shall, upon request, have the right to a preliminary conference with the commission staff or the chairman or vice-chairman for the purpose of claiming whether changes or adjustments to the application could make it more consistent with the commission's standards.

D. No later than six (6) days before the date set for the said hearing, the village building official shall mail notice thereof to the applicant at the address in the application and to all members of the commission.

E. At the scheduled public hearing, the applicant for a certificate of appropriateness shall have the right to present any relevant information pertaining to the application. Likewise, the village, the commission and its staff, and members of the public shall have the right to present any additional relevant information pertaining to the application. The commission shall issue rules of procedure specifying in detail how a public hearing shall be conducted and when comments and information from different sources shall be heard.

F. The commission, at either a preliminary conference or at a public hearing, shall have the right to recommend changes and modifications to enable the applicant to meet the requirements of the commission. If the commission chooses to do this at a preliminary conference after an application for a certificate of appropriateness has been filed, then the time during which the commission must render its decision, as set forth below in Paragraphs G. and H., shall be extended by thirty (30) days in order to permit the applicant to prepare any new drawings or other submissions which prove necessary.

G. Within not more than forty-five (45) days after the hearing on an application, the commission shall act upon it, either approving, denying, or deferring action until the next meeting of the commission, giving consideration to the factors set forth in Section VII hereof. Evidence of approval of the application shall be by certificate of appropriateness issued by the commission and, whatever its decision, notice in writing shall be given to the applicant and the village building official.

H. Failure by the commission to reach and render a decision within sixty (60) days of the date of filing of the application with the commission shall be taken to constitute approval of the application by the commission, unless an applicant has requested that the commission delay its decision beyond the sixty (60) day period otherwise required.

I. 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 village concerning zoning, construction, repair, or demolition. In all such cases, applicants are encouraged to apply first for a certificate of appropriateness, as other village agencies will be advised by the preservation commission in making their subsequent decisions.

J. No building permit which affects a resource shall be issued of a certificate of appropriateness by the commission. Even if a building permit is not otherwise required by the village ordinances for construction, alteration, demolition, or relocation of any resource, a certificate of appropriateness from the commission is required.

#### **SECTION X-UNREASONABLE ECONOMIC HARDSHIP**

When a claim of unreasonable economic hardship is made due to the effect of this ordinance, the owner of record must present evidence sufficient to prove, that as a result of the preservation commission's action, he is unable to obtain a reasonable return or a reasonable beneficial use. The owner of record shall submit by affidavit to the commission for its review at least the following information:

- A. Date the property was acquired by its current owner;
- B. Price paid for the property (if acquired by purchase) and the relationship (if any) between the buyer and seller of the property;
- C. Mortgage history of the property, including current mortgage;
- D. Current market value of the property;
- E. Equity in current use and in alternative uses;
- F. Past and current income and expense statements for a two-year period;
- G. Past capital expenditures during ownership of current owner;
- H. Appraisals of the property obtained within the previous two years; and
- I. Income and property tax factors affecting the property.

The preservation commission may require that an applicant furnish additional information relevant to its determination of unreasonable economic hardship.

The preservation commission may receive and consider studies and economic analyses from other village agencies and from private organizations relating to the property in question. Should the commission determine that the owner's present return is not reasonable, it must consider



whether there are other uses currently allowed that would provide a reasonable return and whether such a return could be obtained through investment in the property for rehabilitation purposes.

Should the applicant satisfy the commission that he would suffer an unreasonable economic hardship if a certificate of appropriateness were not approved, such certificate must be approved.

## **SECTION XI-APPEALS**

The applicant who desires to appeal a decision by the commission shall file an appeal with the Mayor and Village Council (or to the circuit clerk of the parish if the village prefers for the appeal to go to court) within thirty (30) days after the determination of the issue by the commission in the manner provided by law.

## **SECTION XII-MINIMUM MAINTENANCE REQUIREMENTS**

In order to insure the protective maintenance of resources, the exterior features of such properties shall be maintained to meet the requirements of the village's minimum housing code and the village's building code.

## **SECTION XIII-DEMOLITION BY NEGLECT**

A. Any resource which is a landmark and all resources with a preservation district shall be preserved by the owner or such other person or persons as may have the legal custody or control thereof against decay and deterioration and free from unreasonable structural defects. The owner or other person having legal custody and control thereof shall repair such resource if it is found to have one or more of the following defects;

1. Deterioration to the extent that it creates or permits a hazardous or unsafe condition as determined by the village's building inspector.
2. Deterioration, as determined by the building inspector, of a building characterized by one or more of the following:
  - a. Those buildings that have parts thereof, which are so attached that they may fall and injure persons or property;
  - b. Deteriorated or inadequate foundations;
  - c. Defective or deteriorated floor supports or floor supports insufficient to carry

imposed loads with safety;

- d. Members of walls or other vertical supports that split, lean, list, or buckle due to defective material, workmanship, or deterioration;
- e. Members of wall or other vertical supports that are insufficient to carry imposed loads with safety;
- f. Members of ceilings, roofs, ceiling, and roof supports, or other horizontal members which sag, split, or buckle due to defective material, workmanship, or deterioration;
- g. Members of ceilings, roof, ceiling and roof supports, or other horizontal members that are insufficient to carry imposed loads with safety;
- h. Fireplaces or chimneys which list, bulge, or settle due to defective material, workmanship, or deterioration; or
- i. Any fault, defect, or condition in the building which renders the same structurally unsafe or not properly watertight.

B. If the commission makes a preliminary determination that a resource is being demolished by neglect, it shall direct the village building official to notify the owner or owners of the resource of this preliminary determination, stating the reasons therefore, and shall give the owner of record thirty (30) days from the date of mailing of such notice or the posting thereof on the property, whichever comes later, to commence work to correct the specific defects as determined by the commission.

Said notice shall be given as follows:

- 1. By certified mail, restricted delivery, mailed to the last known address of the record owner or owners as listed on the village and/or parish tax rolls; or
- 2. If the above mailing procedure is not successful, notice shall be posted in a conspicuous, protected place on the resource.

C. If the owner or owners fail to commence work within the time allotted as evidence by a building permit the commission shall notify the owner or owners in the manner provided above to appear at a public hearing before the commission at a date, time, and place to be specified in said notice, which shall be mailed or posted at least thirty (30) days before said hearing. For the purpose of insuring lawful notice, a hearing may be continued to a new date and time. The commission shall receive evidence on the issue of whether the subject resource should be repaired and the owner or owners may present evidence in rebuttal

thereto. If after such hearing, the commission shall determine that the resource is being demolished by neglect, it may direct the village building official to bring misdemeanor charges against the owner or owners of the necessary repairs are not completed within ninety (90) days of the determination by the commission that the subject building or structure is being demolished by neglect.

#### **SECTION XIV-PUBLIC SAFETY EXCLUSION**

None of the provisions of this ordinance shall be construed to prevent any action of construction, alteration, or demolition necessary to correct or abate the unsafe or dangerous condition of any resource, or part thereof, where such condition has been declared unsafe or dangerous by the village building official or the fire department and where the proposed actions have been declared necessary by such authorities to correct the said condition; provided, however, that only such work as is necessary to correct the unsafe or dangerous condition may be performed pursuant to this section. In the event any resource designated as a landmark or located within a preservation district, shall be damaged by fire or other calamity to such an extent that it cannot be repaired and restored, it may be removed in conformity with normal permit procedures and applicable laws, provided that:

- A. The village building official concurs with the property owner that the resource cannot be repaired and restored and so notifies the commission in writing.
- B. The preservation commission, if in doubt after receiving such notification from the village building official, shall be allowed time to seek outside professional expertise from the State Historic Preservation Office and/or an independent structural engineer before issuing a certificate of appropriateness for demolition. The commission may indicate in writing by letter to the village building official that it will require a time period of up to thirty (30) days for this purpose, and upon such notification to the village building official, this section shall be suspended until the expiration of such a delay period.

#### **SECTION XV-ENFORCEMENT AND PENALTIES.**

The following civil ("or criminal") penalties may be imposed upon those persons, firms, or corporations found to have violated requirements or prohibitions contained within this ordinance.

- A. Civil Penalty

1. Any person who constructs, alters, relocates, or demolishes any resource in violation of this ordinance shall be required to restore the resource to its appearance or setting prior to the violation. Any action to enforce this provision shall be brought by the Village of Grand Cane. ("This civil remedy shall be in addition to, and not in lieu of, any criminal prosecution and penalty.")
  2. If demolition of a resource occurs without a certificate of appropriateness, then any permits on subject property will be denied for a period of three (3) years. In addition, the applicant shall not be entitled to have issued to him by any village office a permit allowing any curb cuts on subject property for a period of three (3) years from and after the date of such demolition.
- B. Criminal Penalty (General only IF the village also intends for appeals to go to court):
1. Any person or legal entity who constructs, alters, relocates, or demolishes any resource in violation of this ordinance or who causes any resource to be constructed, altered, relocated, or demolished in violation of this ordinance shall be guilty of a misdemeanor, and each shall be deemed guilty of a separate violation for each day during which any violation hereof is committed. Upon conviction, each violation shall be punishable by a fine not to exceed five hundred dollars (\$500.00) or imprisonment not exceeding sixty (60) days, or both.

## **SECTION XVI-APPROPRIATIONS**

The village is authorized to make appropriations to the commission necessary for the expenses of the operation of the commission and may make additional amounts available as necessary for the acquisition, restoration, preservation, operation, and management of historic properties.

## **SECTION XVII - TITLE TO PROPERTY ACQUIRED**

All property acquired by funds appropriated by the village shall be acquired in the name of the village unless otherwise provided by the village. So long as owned by the village, properties may be maintained by or under the supervision and control of the village, however, all property acquired by the commission from funds other than those appropriated by the village may be acquired and held in the name of the commission, the village, or both. Whenever the commission shall hold title to properties in its own name, such properties shall be administered in accordance with this and other village ordinances.

### **SECTION XVIII - NON RESTRICTIVE CLAUSE**

Nothing in this ordinance shall be construed to prevent the regulation or acquisition of property, improved or unimproved, by the State of Louisiana or any of its political subdivisions, agencies, or instrumentalities or by the United State of America or any of its political subdivisions, agencies, or instrumentalities.

### **SECTION XIX-DISQUALIFICATION OF MEMBERS BY CONFLICT OF INTEREST**

Because the village may possess few residents with experience in the individual fields of history, architecture, architectural history, archaeology, urban planning, law or real estate, and in order not to impair such residents from practicing their trade for hire, members of the commission are allowed to contract their services to an applicant for a certificate of appropriateness, and, when doing so, must expressly disqualify themselves from the commission during all discussions for that application. In such cases, the village shall, upon request of the chairman of the commission or the vice-chairman in his stead, appoint a substitute member who is qualified in the same field as the disqualified member, and who will serve for that particular case only. If no qualified resident of the village is able to substitute for the disqualified member, the village may appoint, in this case only, a qualified substitute who is a resident of Louisiana but not a resident of the Village of Grand Cane. If any member of the commission must be disqualified due to a conflict of interest on a regular and continuing basis, the chairman or vice-chairman of the commission shall encourage the village to replace the member. Likewise, any member of the commission who has an interest in the property in question or in property within three hundred feet (300') of such a property, or who is employed with a firm that has been hired to aid the applicant in any matter whatsoever, or who has any proprietary, tenance or personal interest in a matter to be considered by the commission shall be disqualified from participating in the consideration of any request for a certificate of appropriateness involving such a property. In such cases, a qualified substitute shall be appointed as provided above.

### **SECTION XX- SEVERABILITY**

The requirements and provisions of this ordinance are separable. If any article, section, paragraph, sentence, or portion thereof, is declared by any court of competent jurisdiction to be void, invalid, or inoperative, the decision of the court shall not affect the validity or applicability

of the ordinance as a whole or if any part thereof other than the part held void, invalid, or otherwise inoperative.

#### **SECTION XXI -CONFLICTING ORDINANCES**

All ordinances and parts of ordinances in conflict herewith are hereby repealed.

#### **SECTION XXI -EFFECTIVE DATE**

This ordinance shall become effective after its passage.

And the ordinance was declared adopted on this the 14<sup>th</sup> day of November 2005 with a motion from Shelton Farmer, seconded by Rhonda Meek. Votes as follows:

**YEAS: 3**


**NAYS: 0**

**ABSENT: 0**

**ABSTAIN: 0**

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Linda Brown, Mayor



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Ann-Marie Eaves, Clerk