
Historic Preservation Ordinance

Summary of Amendments

Adopted Oct 7, 2015

Effective date Nov 6, 2015



**PLANNING &
DEVELOPMENT
DEPARTMENT**

*On October 7, 2015, City Council approved amendments to the Historic Preservation Ordinance (Chapter 33, Code of Ordinances). **These revisions are effective on November 6, 2015.** Certificate of Appropriateness applications received after November 6, 2015 are to be considered under the new ordinance. Below is a summary of these changes and how they affect property owners.*

Design Guidelines (Sec. 33-266--33-268)

HAHC can now instruct the Planning Department to create Design Guidelines for existing historic districts that do not have them. Houston Heights will receive Design Guidelines within 16 months of adoption of the amendments (February, 2017). The Planning Department has already set this process in motion. Other existing districts are being prioritized according to greatest need.

Design Guidelines cannot weaken historic district protections within districts, except as explicitly stated in Chapter 33, but can institute additional requirements in individual districts. When there is a conflict between the ordinance and a district's design guidelines, the stricter of the two shall prevail. All Design Guidelines will be created with public input and must be approved by City Council before going into effect.

Exemptions (Sec. 33-237)

The types of projects that are completely exempt from Certificate of Appropriateness requirements have been clarified and expanded. The list now includes:

- Reroofing your building with like materials.
- Adding minor features such as gutters, screen doors, and storm windows.
- Installation of equipment such as solar panels or satellite dishes on the rear half of a roof.
- Fences. Individual historic districts may adopt fence requirements through Design Guidelines (see below).

Certificates of Appropriateness

- **Administrative Approvals (Sec. 33-241.1):** The types of projects that can be approved administratively by the Planning Director have been expanded, saving time for property owners, commissioners, and staff. If the Planning Director finds that a project subject to administrative approval does not meet criteria for approval, the project will be sent to HAHC for their decision. Projects that can now be administratively approved include:

- 'Shall-approves' (Sec. 33-241.1(a)).
- Signs 25 square feet and less (Sec. 33-241.1).
- Construction of rear detached garages and accessory structures with a footprint under 600 square feet.
- Most alterations to non-contributing structures.
- Removal of non-historic materials and features.
- Replacement of historic materials that are damaged beyond repair.
- Installation of burglar bars, solar panels, satellite dishes, accessibility ramps, and awnings.

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- **Notification of Certificate of Appropriateness applications (Sec. 33-238.1):** Applicants for most COAs are now required to post a notice sign in front of their building indicating that an application has been submitted. For most projects, the required sign is a small yard sign stating the type of project and providing contact information for the Planning Department. Applicants for demolitions, relocations, and appeals of denied COAs are required to post a 4' X 8' sign in the front yard. A limited number of minor COA requests will be exempt from signage requirements. The Department is creating an information sheet to explain the specific sign requirements for all project types. In the meantime, please contact the Planning Department if you have questions.
 - **Application Requirements (Sec. 33-238):** The director now has the ability to establish application requirements and forms for Certificates of Appropriateness. This provision allows the director the flexibility to revise the requirements when necessary. City Council now has the authority to adopt a fee schedule for applications, although no fees have yet been adopted.
 - **Changes to Review Criteria for Certificates of Appropriateness.**
 - **Alterations and Additions to Contributing Structures (Sec. 33-241).** The amendment separates former Criterion 9 into two distinct criteria and removes Criterion 11 from HAHC consideration. It also clarifies what items are considered "significant historic material."
 - **Simple additions meeting specific formulas (sometimes referred to as 'Shall Approves') now qualify for administrative approval (Sec. 33-241.1(a)).** The review criteria have been reworded to eliminate confusion about when a project will qualify. Additions that do not meet these formulas will go through the regular HAHC review process and must meet the 11 criteria in Sec. 33-241 to be approved.
 - **Regulation of structural elements of exterior walls, such as interior shiplap (Sec. 33-241.1(d)).** Shiplap on exterior walls may be removed only with a Certificate of Appropriateness based on documentation from that a licensed engineer that its removal will not damage the structure. This is an administrative approval.
 - **Alterations and Additions to Noncontributing Structures (33-241.1(b)).** Most alterations to non-contributing structures now qualify for administrative approval. The review criteria have been modified slightly as well, so that alterations and additions to noncontributing structures are allowed as long as they match the structure or are compatible with the historic district. Additions to non-contributing structures must be compatible to the context area in terms of setbacks, exterior features, proportions and scale.
 - **New Construction in Historic Districts (Sec. 33-242).** This amendment removes all references to land use when considering the height limitation for new construction. It also requires that new construction be appropriate in setbacks, size, scale and exterior architectural elements to the local "context area" instead of the entire historic district. Design Guidelines may establish a different context area than that defined in the ordinance.
 - **Relocation or Demolition of Historic Structures: (Sec. 22-243, Sec. 22-247).** The ordinance now identifies different criteria for the relocation of a landmark, of a contributing structure being relocated within the district (including on its own site), and of a contributing structure being relocated outside a district. The amendments also make slight revisions to the materials required for a complete demolition application as well as to the criteria of approval. Appeals for denied demolition requests will now be delayed by 90 days in order to allow time to consider alternatives to demolition.

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- **Archaeological Sites (Sec. 33-225, Sec. 33-246).** The changes establish additional criteria for the excavation of designated archaeological sites. In keeping with state standards, the location of designated significant archaeological will not be disclosed to the public and instead will be kept by the City Secretary.

Appeals (Sec 33-253)

The new ordinance establishes an appeals board to hear all appeals from the HAHC. This board will replace the Planning Commission in the appeals process. The appeals board will consist of two former HAHC members, two former Planning Commissioners, and one citizen representative, all with knowledge and interest in historic preservation, and will be appointed by the Mayor with Council confirmation. If the board upholds the HAHC's decision, the applicant retains the right to appeal to the city council.

Historic District Designation

- **The Historic District application process has been modified (Sec. 222.1).** The required property owner support for new historic districts – 67% - as well as the methods for determining that support have not been changed. The director, however, may now create one or more districts within a proposed district area. Also, HAHC has the ability to extend the protected period if the application is deferred for a second hearing (Sec. 33-223).
- **Historic District Boundary changes (Sec. 33-227).** Owners of properties adjacent to existing districts may request to join the district by following the same process required to create a new district.
- **Building Classifications may be updated (Sec. 33-227):** Upon request by the HAHC, City Council may change a building classification of 'contributing' or 'noncontributing' where circumstances have changed or an error was made at the time of historic district designation.

Enforcement

- **Illegal Demolition (Sec. 33-203).** A property owner who illegally demolishes a structure, including through demolition by neglect, may not obtain a building permit for that location for two years, and may not build a structure larger than the structure that was illegally demolished for a total period of ten years from the date of the illegal demolition.
- **Certificates of Remediation (Sec. 33-203).** The HAHC may now issue a Certificate of Remediation to property owners who perform inappropriate work outside the scope of their Certificate of Appropriateness in cases where the historic material has been destroyed. This Certificate of Remediation will allow an owner to complete an unfinished project but will not exempt violators from enforcement actions, such as citations and fines, and will make the project ineligible for the historic site tax exemption.

Historic Site Tax Exemption (Sec. 44-5)

- **Eligible expenses.** The city's tax exemption now limits eligible expenditures to the maintenance and rehabilitation of historic structures. Costs associated with additions will not count towards the tax exemption. This change aligns the city's program with state and federal historic tax credit programs.
- **Required Investment.** The level of investment required to qualify for the tax exemption has been lowered from 50% to 25% of the improvement value prior to rehabilitation.

Houston Archaeological and Historical Commission (HAHC)

- **HAHC Qualifications and Terms (Sec. 33-211):** The amendments improve the technical expertise of persons appointed to the Houston Archaeological and Historical Commission and provide more flexibility for appointing and retaining highly qualified people. Small modifications have been made to some of the position requirements and term limits have been eliminated. Commissioners will continue to serve two-year terms and must be reappointed every two years.

Definitions

- **Revised definitions:**
 - “alteration” is now clear that it includes replacing historic material, changing the type of foundation, signs that are attached to a building, and the painting of previously unpainted masonry surfaces.
 - “demolition” is broadened to include demolition by neglect.
 - “exterior feature” is clarified to include foundations and structural wall material in external walls, such as shiplap.
 - “ordinary maintenance and repair” is changed to exclude the replacement of historic materials and the leveling of a foundation.
 - “streets” replaces “public right-of-way” and now includes private streets but not alleys or shared driveways.
- **New definitions:**
 - “certificate of remediation” means a current and valid permit issued by the HAHC authorizing the issuance of a building permit for construction, alteration, rehabilitation, restoration, relocation or demolition intended to correct action taken contrary to the requirements of this article, and shall serve as a certificate of appropriateness for the enforcement and violation of this article, and is granted by the same standards that a certificate of appropriateness is granted.
 - “context area” means the blockface and the opposing blockface within the district where the proposed activity is located. Context area may include a different geographic area if the commission finds that unusual and compelling circumstances exist or that context area is described differently in design guidelines.
 - “historic preservation officer” means a person designated by the director to perform the duties of the director under this article.
 - “massing” means the arrangement of the overall shape and volume of a building.
 - “new construction” means a free-standing building or structure proposed to be constructed within a historic district designated by city council, whether that building or structure is on the location of a vacant lot or a lot with another structure on it.
 - “street” means a public or private street or roadway that is not an alley or a shared driveway.
 - “typical” means being within commonly occurring values in a group. Extreme values within a group are not necessarily typical of that group.