



CITY OF NEW ORLEANS

Historic District Landmarks Commission

Chapter 84 - Historic Preservation

ZONING ORDINANCE

The following is extracted from the New Orleans, Louisiana, Code of Ordinances, Part II – Code in October 2018.

CHAPTER 84 - HISTORIC PRESERVATION

ARTICLE I. – IN GENERAL

In General

Secs. 84-1--84-20. - Reserved.

ARTICLE II. - HISTORIC DISTRICT AND LANDMARKS

Division 1. Generally

- Sec. 84-21 Purpose of article.
- Sec. 84-22. Definitions.
- Sec. 84-23. Enforcement of article (New Orleans Historic and Landmarks Commission).
- Sec. 84-24. Appeals.
- Secs. 84-25--84-45. Reserved.

Division 2. Historic District/Landmark Commission

- Sec. 84-46. Created.
- Sec. 84-47. Membership.
- Sec. 84-48. Powers and duties granted.
- Sec. 84-49. Applicability of powers.
- Sec. 84-50. Landmark powers.
- Sec. 84-51. Additional powers.
- Secs. 84-52--84-75. Reserved.

Division 3. Certificates of Appropriateness

- Sec. 84-76. Required; exception.
- Sec. 84-77. Criteria for issuance.
- Sec. 84-78. Application.
- Sec. 84-79. Variances.
- Sec. 84-80. Expiration.
- Sec. 84-81. Posting.
- Sec. 84-82. Division not to affect comprehensive zoning ordinance.
- Secs. 84-83--84-105. - Reserved.

Division 4. Regulations

- Sec. 84-106. Historic district.
- Sec. 84-107. Landmarks designation.
- Sec. 84-108. Demolition by neglect (HDLC).
- Secs. 84-109--84-130. Reserved.

ARTICLE III. – CENTRAL BUSINESS DISTRICT HISTORIC DISTRICT AND LANDMARKS

Division 1. Generally

- Sec. 84-131. Purpose of article.
- Sec. 84-132. Definitions.
- Sec. 84-133. Enforcement.
- Sec. 84-134. Appeals.
- Secs. 84-135--84-155. Reserved.

Division 2. Central Business District Historic District Landmarks Commission

- Sec. 84-156. Created.
- Sec. 84-157. Membership.
- Sec. 84-158. Powers and duties granted.
- Sec. 84-159. Applicability of powers.
- Sec. 84-160. Landmark powers.
- Sec. 84-161. Additional powers.
- Secs. 84-162--84-185. Reserved.

Division 3. Certificates of Appropriateness

- Sec. 84-186. Required; exception.
- Sec. 84-187. Criteria for issuance.
- Sec. 84-188. Application.
- Sec. 84-189. Variances.
- Sec. 84-190. Expiration.
- Sec. 84-191. Posting.
- Sec. 84-192. Division not to effect comprehensive zoning ordinance.

Secs. 84-193--84-215. Reserved.

Division 4. Regulations

- Sec. 84-216. Historic district.
- Sec. 84-217. Landmarks designation.
- Sec. 84-218. Demolition by neglect (Central Business District Historic District Landmark Commission.)

ARTICLE I. – IN GENERAL

Secs. 84-1--84-20. - Reserved.

ARTICLE II. – HISTORIC DISTRICT AND LANDMARKS

DIVISION 1. GENERALLY

Sec. 84-21. - Purpose of article.

The purpose of this article is to promote historic districts and landmarks for the educational, cultural, economic, and general welfare of the public through the preservation, protection, and regulation of buildings, sites, monuments, structures, and areas of historic interest or importance within the city; to safeguard the heritage of the city by preserving and regulating historic landmarks and districts which reflect elements of its cultural, social, economic, political, and architectural history; to preserve and enhance the environmental quality of neighborhoods; to strengthen the city's economic base by the stimulation of the tourist industry; to establish and improve property values; to foster economic development; and to manage growth.

Sec. 84-22. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alteration means any change because of construction, repair, maintenance, or otherwise to any building located within an historic district or designated as a landmark.

Applicant means the record owner of the site and/or buildings located thereon, the lessee thereof, a person holding a bona fide contract to purchase the site and/or building, or a processor possessing the site and buildings located thereon, pursuant to R.S. 9:5633.

Building means any structure, place, or any other construction built for the shelter or enclosure of persons, animals, or chattels, or any part of such structure when subdivided by division walks or party walls extending to or above the roof and without openings in such separate walls. The term "building" shall be construed as if followed by the words "or any part thereof."

Certificate of appropriateness means a document evidencing approval of the commission for work proposed by an applicant.

Commission means the historic district/landmark commission.

Construction means the erection of any on-site improvements on any parcel of ground located within an historic district or on a landmark site, whether the site is presently improved, unimproved, or hereafter becomes unimproved by demolition; demolition by neglect, destruction of the improvements located thereon by fire, windstorm, or other casualty; or otherwise, hereafter such a parcel of ground shall be referred to as "site."

Demolition: An act or process that results in one or more of the following at any time over a 5-year period:

- (1) Structural removal of more than 50% of the exterior wall area;
- (2) Removal of more than 50% of the roof structure as measured in plan view;
- (3) Structural removal of more than 25% of the primary façade;

For the purpose of this article, the term "demolition" shall not include ordinary repairs and maintenance, restructuring, or interior renovations.

Exterior means all outside surfaces of any building.

Historic district or district means an area designated by the city council as an historic district and declared to be subject to jurisdiction of the commission.

Landmark or landmark site means an unimproved parcel of ground (landmark site) or such parcel with improvements or such improvements without grounds (landmark), wheresoever located in the city, subject to the jurisdiction of the historic district landmarks commission, of particular historic, architectural, or cultural significance, which parcel plus its improvements, if any:

- (4) Exemplify or reflect the broad cultural, political, economic, or social history of the nation, state, or community;
- (5) Are identified with historic personages or with important events in national, state, or local history;
- (6) Embody distinguishing characteristics of an architectural type or specimen, inherently valuable for a study of a period, style, method of construction, or of indigenous materials or craftsmanship; or
- (7) Are representative of the notable work of a master builder, designer, or architect whose individual ability has been recognized.

Ordinary repairs and maintenance means work done on a building in order to correct any deterioration, decay of, or damage to a building or any part thereof in order to restore such building as nearly as practical to its condition prior to such deterioration, decay or damage.

Violator(s) means any person(s), firm(s), or corporation(s) owning property, including their lessee(s), tenant(s), agent(s), employee(s), or any person(s) acting or claiming to act on their behalf, and/or contractor(s) or any individual(s) retained by any person(s), firm(s), or corporation(s) owning property, including their lessee(s), tenant(s), agent(s), employee(s), or any person(s) acting or claiming to act on their behalf to construct, renovate or modify a structure or perform site improvements that is executed in a manner inconsistent with this chapter, and/or transferor(s) of property responsible for deviations of this chapter at the time of said transfer.

(M.C.S., Ord. No. 20626, § 1, 4-4-02; M.C.S., Ord. No. 23553, § 1, 5-21-09)

Cross reference — Definitions generally, § 1-2.

Sec. 84-23. - Enforcement of article (New Orleans Historic and Landmarks Commission).

- (a) Upon request, the department of safety and permits may aid the commission in making all necessary inspections in connection with the enforcement of this article, and furnish the commission with copies of the reports of their inspections. Employees of the department of safety and permits shall have the same right to inspect premises in connection with the enforcement of this article as they now have in relation to zoning and other violations under the jurisdiction of such department.
- (b) The commission, through its director or other appropriate officer, will send notices by certified mail to all violator(s) who may be in violation of the provisions of this article or the rules and procedures of the commission and inform them of such violations. If such a violation has been noted and the violator(s) is informed of the violation, and the violation has not been corrected within 30 days from the mailing of the notice, the commission may, through its director, prosecute or cause to have prosecuted such violations of this article, in accordance with the procedures for administrative adjudication established in chapter 6 of the Code of the City of New Orleans, or in the municipal court of the city, or in such other court of competent jurisdiction as may be proper, either civil or criminal. If a violator(s), in good faith, has begun the process of correcting noticed violations, but has not completed the correction(s) within said 30 day correction period, adjudication may be stayed pending completion. This determination is at the sole discretion of the director of the New Orleans Historic District Landmarks Commission.
- (c) Failure to comply with the provisions of this article or the rules and procedures of the commission shall constitute a violation hereof and may be punishable by a fine not less than \$100.00 not more than \$500.00 per day for each day that the violation continues.
- (d) The commission, through its director or other appropriate officer, shall have the right to enforce any violation of this article or the rules and procedures of this commission by proceeding in accordance with the procedures for administrative adjudication established in chapter 6 of the Code of the City of New Orleans, or by civil action for injunctive relief, or to implement any other appropriate remedy brought on in the name of the city including the stoppage of any work attempted without or contrary to a certificate of appropriateness issued under division 3 of this article.

(Ord. No. 19,866, § 1, 10-19-00; M.C.S., Ord. No. 23553, § 1, 5-21-09)

Sec. 84-24. - Appeals.

- (a) Any person aggrieved by any decision, act, or proceeding of the commission shall have a right to apply in writing to the city council for reversal or modification thereof. The president of the city council shall have the right to stay all further action until the city council may affirm a decision of the commission by majority vote of all its members. Any such appeal shall be taken within ten days from the date of the decision. The city council has the right to reverse, change, or modify any decision of the commission only by a majority vote of all its members.
- (b) Any person aggrieved by any decision of the council affecting the district shall have the right to file a civil suit within 30 days from the date of decision in a court of competent jurisdiction under the usual rules of procedure governing same with the right to stay orders and injunctive relief, provided the situation warrants it.

Secs. 84-25—84-45. - Reserved.

DIVISION 2. – HISTORIC DISTRICT/LANDMARK COMMISSION

Sec. 84-46. - Created.

M.C.S., Ordinance No. 5643 created a commission to be known as the New Orleans Historic District/Landmarks Commission, for the purpose of regulating historic district and historic landmarks designated within the city pursuant to the state Constitution of 1974 and acts 273 of 1974 and 804 of 1975.

Sec. 84-47. - Membership.

- (a) **Qualifications.** Members of the commission shall be electors of and domiciled in the City.
- (b) **Appointment.** For each historic district created by the city council, not less than one member shall be appointed, whether by appointment or reappointment, who shall be a resident or property owner within the historic district. The total membership of the commission shall not exceed 15.
- (c) **Terms of Office.** The commission shall consist of fifteen members, appointed by the mayor subject to approval of a majority vote of the city council for four-year terms each except that effective June, 30 2018, the terms of members of the commission shall be staggered as follows:
 - (1) Member representing Holy Cross, Faubourg Marigny, Bywater and Uptown Historic Districts shall expire June 30, 2018;
 - (2) Members representing the Esplanade Ridge, Treme, Garden District and St. Charles Avenue Historic Districts shall expire June 30, 2019;
 - (3) Members representing the Carrollton, Parkview; and Lower Garden Historic Districts and the At Large member shall expire June 30, 2020; and

- (4) Members representing the Algiers Point, Irish Channel, and Mid City Historic Districts shall expire June 30, 2021.

Successors shall serve four-year terms thereafter. A chairman and vice-chairman shall be elected annually from the members of the commission. Any member may be appointed to another term.

- (d) **Vacancies.** Vacancies on the commission shall be filled for the remainder of the unexpired terms. Vacancies shall be filled by appointment in the same manner as the original appointments.
- (e) **Compensation.** All members shall serve without compensation."

Sec. 84-48. - Powers and duties granted.

The commission shall exercise only those powers and duties granted by this division or those powers and duties which may be assigned to it at a later time by the city council.

Sec. 84-49. - Applicability of powers.

The regulatory powers conferred upon the commission shall apply to all private property in the area controlled by the commission, including all buildings, structures, areas, sites, and their adjuncts and appurtenances, insofar as they constitute part of the entirety or toute ensemble of a district or landmark site, and public and private utility facilities of South Central Bell Telephone Company or any other utility providing telecommunications services and New Orleans Public Service Inc., or any other utility providing electric or gas service, located on public or private property, including, but not limited to electric substations and telephone exchanges. Any governmental agency, other than the city council, having a responsibility for any building, structure, area, site, public way and their adjuncts and appurtenances within a district or landmark site shall seek the advice of the commission prior to the initiation of any substantive change, modification, renovation, restoration, alteration, construction, or demolition.

(M.C.S., Ord. No. 17,518, § 1, 5-2-96)

Sec. 84-50. - Landmark powers.

The commission shall exercise the following landmark powers:

- (1) Name or designate a building together with its accessory buildings and its lot of record or any part thereof, or to name or designate vacant sites not in excess of five acres as historic and worthy of preservation as a landmark within the jurisdiction of the commission. Buildings and sites not encompassed by this subsection may be designated as a landmark by the commission, but such determination shall be ratified by a majority vote of the city council.

- (2) Recommend appropriate legislation for the preservation of any building, structure, site, monument, area, or other landmark which it has so named or designated.
- (3) Make application for public and private funds when appropriate and available.
- (4) Review applications proposing the erection, alteration, restoration or moving of any building, structure, site, monument, area or other landmark which it has so named or designated, and to issue or deny certificates of appropriateness accordingly.
- (5) Review all applications for demolition permits proposing demolition of all or part of any building, structure, monument or other landmark which it has so named and designated, and to issue certificates of appropriateness or to deny them for one year.
- (6) Work with the owner of landmark property throughout the year following a refusal to issue a certificate of appropriateness pursuant to an application for a demolition permit, and to seek alternative economic uses for the landmark property.
- (7) Renew its denial of a certificate of appropriateness for demolition of landmark property for additional one-year periods indefinitely thereafter, following a public hearing each time at which the owner of the affected property shall be afforded an opportunity to appear with counsel and to present testimony.
- (8) Prohibit the issuance of demolition permits affecting any property under consideration for landmark designation, such prohibition to remain in effect for the length of time required by the commission for final action on the proposed landmark.
- (9) Prohibit the issuance of building and exterior remodeling permits affecting any property under consideration for landmark designation unless the commissions's staff has determined that the application is for ordinary maintenance and the remodeling is determined to be more appropriate to the style and period of the building by means of documenting the original appearance of parallel structures or the commission has determined that the application conforms with the criteria set forth in division 3 of this article, such prohibition to remain in effect for the length of time required by the commission for final action on the proposed designation. In all instances the commission shall regulate the exterior of a landmark.

Sec. 84-51. - Additional powers.

The commission shall have the following additional powers:

- (1) Make periodic reports to the city council;
- (2) Provide information to property owners and others involving the preservation of the district;
- (3) Suggest pertinent legislation;
- (4) Recommend planning and zoning proposals;
- (5) Cooperate with other regulatory agencies and civic organizations and groups interested in historic preservation;
- (6) Review all applications for zoning variances, changes and conditional uses where they affect the district;
- (7) Render advice with reference to sidewalk construction and repair, tree planting, street improvements, and also the renovation, restoration, or construction of public buildings;
- (8) Furnish information and assistance in connection with public buildings and any capital improvements program involving the historic area;
- (9) Consult with the National Trust for Historic Preservation and other expert groups;
- (10) Administer such financial mechanisms as the city council may establish for the welfare of the city within a district and collect fees, subject to city council approval;
- (11) Appoint advisory boards from time to time; and
- (12) Promulgate operational rules and procedures which rules and procedures shall be submitted to the city council for ratification in order for the commission to implement the powers and authority granted to the commission by this article.

Secs. 84-52—84-75. - Reserved.

DIVISION 3.—CERTIFICATES OF APPROPRIATENESS

Sec. 84-76. - Required; exception.

- (a) No permit shall be issued by the department of safety and permits which affects a site or structure in any district or a landmark or landmark site without a certificate of appropriateness.
- (b) Nothing contained in this division shall prevent the making of any temporary construction, reconstruction, demolition or other repairs on a landmark, landmark site, or building in a district pursuant to the order of any governmental agency or court for the purpose of remedying emergency conditions determined to be dangerous to life, health, or property.

Sec. 84-77. - Criteria for issuance.

The commission shall adhere to and seek compatibility of structures in the district in terms of size, texture, scale, and site plan and in so doing, the following guidelines shall be considered by the commission in passing upon applications for certificates of appropriateness:

- (1) *New construction.*
 - a. All new construction shall be visually compatible with the buildings and environment with which they are related.
 - b. The general design, scale, gross volume, arrangement of site plan, texture, material and exterior architectural features of new construction shall be in harmony with its surroundings and shall not impair the *toute ensemble* of the neighborhood.
 - c. No one architectural style shall be imposed.
 - d. Quality and excellence in design should be major determinants.
- (2) *Exterior alterations.*
 - a. All exterior alterations to a building shall be compatible with the building itself and other buildings with which it is related, as provided in subsection (1)b of this section and in applying these standards, the original design of the buildings may be considered.
 - b. Exterior alterations shall not affect the architectural character or historical quality of the building.
- (3) *Signs.*
 - a. The scale, and design of any sign should be compatible with the building and environment with which it is related.
 - b. The materials, style, and patterns used in any sign should be compatible with the building and environment with which it is related.
- (4) *Demolition.* In considering an application for the demolition of a landmark or a building in an historic district, the following shall be considered:
 - a. The historic or architectural significance of the building.
 - b. The importance of the building to the *toute ensemble* of the district.
 - c. The special character and aesthetic interest that the building adds to the district.
 - d. The difficulty or impossibility of reproducing such a building because of its design, texture, material, or detail.
 - e. The future utilization of the site.

- (5) *Destruction of nonconforming use.* The reconstruction of buildings legally nonconforming as to use and destroyed by fire, storms, or other acts of God shall be governed by the provisions of the zoning ordinance except that the commission shall regulate the exterior design of such buildings.

Sec. 84-78. - Application.

- (a) *Commission to prescribe application procedure.* The commission shall prescribe the procedure for making application for a certificate of appropriateness.
- (b) *Preliminary conference.* The applicant shall have the right to a preliminary conference, upon applicant's request, with the commission staff and any member of the commission who chooses to attend after receiving a notice thereof, for the purpose of making any changes or adjustments to the application which might be more consistent with the commission's standards.
- (c) *Public hearing; notice.*
- (1) The commission shall hold a public hearing upon each application for a certificate of appropriateness affecting property under its control except in those instances where the commission has determined the application for a certificate of appropriateness does not involve a material change or that the commission has determined that the application complies with the standards adopted by the commission in which case the commission shall by appropriate means designate its approval.
 - (2) Notice of the time and place of the hearing shall be given by publication in the form of a legal advertisement appearing in the official journal of the city or in a newspaper having general circulation in the parish, at least seven days before such hearing, and by posting such notice on or near the main entrance of any hall or room where the commission usually meets. In addition, notices shall be mailed at least seven days prior to the date of such public hearing to the following:
 - a. All adjacent property owners and such other persons and/or organizations as the commission may from time to time determine by policy;
 - b. The applicant;
 - c. The director, city planning commission; and
 - d. The director, department of safety and permits.
- (d) *Approval or denial; time limit; written notice.* Within not more than 45 days after the filing of an application, the commission shall act upon it, either approving, denying or deferring action, giving consideration to the factors set forth in this division. Evidence of approval of the application shall be by certificate of appropriateness issued by the commission; and whatever its final decision, notice in writing shall be given to the applicant, the city planning commission, and the department of safety and permits.

- (e) Records to be kept. The commission shall keep a record of all applications for certificates of appropriateness and of all its actions under this article or its rules and procedures.
- (f) *Changes and modifications.* The commission shall have the right to make such recommendations for changes and modifications as it may deem to be necessary in order to enable the applicant to meet its requirements.

Sec. 84-79. - Variances.

Where, by reason of topographical conditions, irregularly shaped lots, or because of unusual circumstances applicable solely to the particular applicant, strict enforcement of the provisions of this article would result in serious undue hardship particularly affecting the applicant, then the commission, in passing upon the application shall have the power to vary or modify adherence to this article provided always that its requirements ensure harmony with the general purposes hereof, and will not adversely affect an historic preservation district as a whole or any designated landmark. Guidelines for the application of this subsection shall be developed by the commission as a part of its operational rules and procedures.

Sec. 84-80. - Expiration.

All certificates of appropriateness expire not later than six months or such lesser period as designated by the staff of the commission after date of issuance if work as specified is not begun or after a period of six months or such designated lesser period of insubstantial activity. Substantial work shall, to protect the continued validity of such certificate of appropriateness, proceed expeditiously to completion.

Sec. 84-81. - Posting.

It shall be required that certificates of appropriateness be posted on buildings like building permits during the period of construction and the posting will be enforced.

Sec. 84-82. - Division not to affect comprehensive zoning ordinance.

Nothing contained in this division shall be construed as amending or revoking the provisions of the comprehensive zoning ordinance of the city, M.C.S., Ordinance No. 4264, as amended.

Secs. 84-83—84-105. - Reserved.

DIVISION 4. – REGULATIONS

Sec. 84-106. - Historic district.

- (a) No private building, structure, or edifice, including fences, boundary walls, signs, steps or seven rises, and paving shall be erected, altered, restored, moved, or demolished within any district until after an application for a certificate of appropriateness as to exterior architectural features has been submitted to and approved by the commission. Similarly, if earthworks of historical or archaeological importance exist in a district, there shall be no excavating or moving of earth, rock, or subsoil without a certificate of appropriateness. For the purpose of this article exterior architectural features shall include but not be limited to the architectural style, general design and general arrangement of a structure, including the kind and texture of the building material and the type and style of all roofs, windows, doors, and signs. The style, scale, materials, and location of outdoor advertising signs and bill posters within a district shall also be under the control of the commission.
- (b) The commission shall not consider interior arrangement or use, but shall consider the relationship of the exterior of the building concerned with all others in the district so as to avoid incongruity and promote harmony therewith. In all instances the commission shall regulate those outside surfaces of a building that can be viewed from a public right-of-way or street.
- (c) Nothing in this section shall be construed to prevent ordinary maintenance or repairs which do not involve a change of design, material, or of the outward appearance of a building.

Sec. 84-107. - Landmarks designation.

- (a) *Procedure.* The following procedure shall be adhered to in designating any building, structure, site, monument, or other landmark that is worthy of preservation:
 - (1) The commission shall consider for landmark designation any property proposed by motion of any commission member and seconded by two additional commission members, or by the owner of the proposed property.
 - (2) Notice of a proposed designation shall be sent by registered mail to the owner of property proposed for landmark designation, describing the property proposed and announcing a public hearing by the commission to consider the designation.
 - (3) The commission shall also send notice of a proposed designation to all city agencies that have previously requested such notification, in whose area the proposed landmark is located, if any exists, and to other parties customarily informed by the commission of such proceedings.

- (4) The commission shall also cause notice of the proposed designation to be published at least once at least 30 days prior to the public hearing in the official journal of the parish and shall post notice of the hearing in the place where the commission meets, and in addition, such notice may be also published in a newspaper having general circulation in the parish.
- (5) The commission may solicit expert testimony regarding the historic and architectural importance of the building, structure, site, monument, area, or other landmark under consideration for designation.
- (6) The commission may present testimony or documentary evidence of its own to establish the importance of the proposed landmark property.
- (7) The commission shall afford to the owner of the property reasonable opportunity to present testimony or documentary evidence regarding the historic and architectural importance of the proposed landmark property.
- (8) The owner of property proposed for landmark designation shall be afforded the right of presentation by counsel and reasonable opportunity to cross-examine witnesses presented by the commission.
- (9) Any interested party may present testimony or documentary evidence regarding the proposed landmark designation at the public hearing and may submit to the commission documentary evidence within three days after the hearing.
- (10) Within not more than 45 days after a public hearing, the commission shall render a final decision regarding the proposed designation and shall give written notice of its decision to the owner of the property proposed for designation setting forth the reasons therefor.
- (11) The commission shall maintain a record of all testimony and documentary evidence submitted to the commission for consideration of a proposed landmark designation.
- (12) In accord with subsection(a)(2) of this section, the city council may ratify the determination of the commission prior to the classification of a property as a landmark at a regular or special meeting of the city council.

(13) Within 30 days of the date on which the commission designates or the city council ratifies, as the case may be, any building, structure, site or monument as a landmark worthy of preservation, the commission shall cause to be filed in the conveyance office of the parish a certificate of notification that such property is designated a landmark, and the certificate of notification shall be maintained on the public record until such time as the landmark designation may be withdrawn by the commission or the city council.

(b) *Plaque.* At such time as a landmark or landmark site has been finally established in accordance herewith, the commission may cause to be prepared and erected on the landmark or landmark site a suitable plaque declaring that such is a landmark or landmark site.

Sec. 84-108. - Demolition by neglect (HDLC).

(a) Demolition by neglect is neglect in the maintenance of any building resulting in any one or more of the following:

- (1) The deterioration of a building to the extent that it creates or permits a hazardous or unsafe condition as determined by the department of safety and permits.
- (2) The deterioration of a building characterized by one or more of the following:
 - a. Those buildings which have parts thereof which are so attached that they may fall and injure members of the public or property.
 - b. Deteriorated or inadequate foundation.
 - 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 or deterioration.
 - e. Members of walls 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 or deterioration.
 - g. Members of ceilings, roofs, 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 or deterioration.
 - i. Any fault, defect, or condition in the building which renders the building structurally unsafe or not properly watertight.

(3) Action by the city, the state fire marshal, or the department of safety and permits relative to the safety or physical condition of any building.

(b) If the commission determines that a building or landmark is being demolished by neglect, pursuant to the standards of this section, the applicant shall be notified of this preliminary finding, stating the reasons therefor, and the applicant shall be given 30 days from the date of notice in which to commence work rectifying the specifics provided by the commission. Such notice shall be accomplished in the following manner:

- (1) By certified mailing to the last known address of applicant; or
- (2) Notice shall be attached to the building or landmark.

(c) Upon the applicant's failure to commence work, the commission shall notify the applicant in the manner provided above to appear at an administrative enforcement hearing, pursuant to the procedures set forth in chapters 6, 26 or 28 of the Code. In addition, the city may cause such property to be repaired at its expense at such time as funds are appropriated; in which event the city may file an affidavit executed by the director of the historic district landmarks commission to this effect in the office of the recorder of mortgages for the parish, which notice shall constitute a lien and privilege against the property.

(d) Failure to comply with the provisions of this article or the rules and procedures of the commission shall constitute a violation hereof and may be punishable by a fine not less than \$100.00 not more than \$500.00 per day for each day that the violation continues.

(Ord. No. 19,866, § 1, 10-19-00; M.C.S., Ord. No. 23046, § 4, 3-20-08; M.C.S., Ord. No. 23553, § 1, 5-21-09)

Secs. 84-109—84-130. - Reserved.

ARTICLE III. - CENTRAL BUSINESS DISTRICT HISTORIC DISTRICT AND LANDMARKS

DIVISION 1. - GENERALLY

Sec. 84-131. - Purpose of article.

The purpose of this article is to promote central business district historic districts and landmarks for the educational, cultural, economic, and general welfare of the public through the preservation, protection, and regulation of buildings, sites, monuments, structures, and areas of historic interest or importance within the central business district; to safeguard the heritage of the central business district and the city by preserving and regulating historic landmarks and districts which reflect elements of its cultural, social, economic, political, and architectural history; to preserve and enhance the environmental quality of the central business district; to strengthen the city's economic base by stimulating of the tourist industry; to establish and improve property values; to foster economic development; and to encourage growth.

Sec. 84-132. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alteration means any change because of construction, repair, maintenance, or otherwise to a building located within an historic district or designated as a landmark.

Applicant means the record owner of the site and/or buildings located thereon, the lessee thereof, a person holding a bona fide contract to purchase the site and/or building, or a processor possessing the site and buildings located thereon, pursuant to R.S. 9:5633.

Building means any structure, place, or any other construction built for the shelter or enclosure of persons, animals, or chattels, or any part of such structure when subdivided by division, walls or party walls extending to or above the roof and without openings in such separate walls. The term "building" shall be construed as if followed by the words "or any part thereof."

Central business district means the area of the city which falls under the jurisdiction of the central business district historic district landmarks commission bounded by the Mississippi River, the downriver right-of-way of the Pontchartrain Expressway, the centerline of Claiborne Avenue and the centerline of Iberville Street.

Certificate of appropriateness means a document evidencing approval of the commission for work proposed by an applicant.

Commission means the central business district historic district landmarks commission.

Construction means the erection of any on-site improvement on any parcel of ground located within a historic district or on a landmark site, whether the site is presently improved, unimproved, or hereafter becomes unimproved by demolition, demolition by neglect, destruction of the improvement located thereon by fire, windstorm, or other casualty, or otherwise, hereinafter such a parcel of ground shall be referred to as "site."

Demolition means an act or process that results in one or more of the following at any time over a five-year period:

- (1) Structural removal of more than 50% of the exterior wall area;
- (2) Removal of more than 50% of the roof structure as measured in plan view;
- (3) Structural removal of more than 25% of the primary façade.

For the purpose of this article, the term "demolition" shall not include ordinary repairs and maintenance, restructuring, or interior renovations.

Earthworks means any subsurface remains of historical, archaeological, or architectural importance or any unusual ground formation of archaeological significance.

Exterior means all outside surfaces of any building.

Landmark or landmark site means a building (landmark) and/or its lot of record or any part thereof or vacant site (landmark site), wheresoever located in the central business district of the city subject to the jurisdiction of the central business district historic district landmarks commission, of particular historic, architectural, or cultural significance, which landmark and/or landmark site meets at least one of the following criteria:

- (1) Exemplifies or reflects the broad cultural, political, economic, or social history of the nation, state, or community;
- (2) Is identified with historic personages or with important events in national, state, or local history;
- (3) Embodies distinguishing characteristics of an architectural type specimen, inherently valuable for a study of a period, style, method of construction, or indigenous materials or craftsmanship;
- (4) Is representative of the notable work of a master builder, designer, or architect whose individual ability has been recognized.

Ordinary repairs and maintenance means work done on a building in order to correct any deterioration, decay, or damage to a building or any part thereof in order to restore the building as nearly as practical to its condition prior to such deterioration, decay or damage.

Rating of significance means the value placed on a building as to its architectural or historical importance, falling into one of the following categories:

- (1) *Category A, buildings of national importance.* These nationally important buildings include important works by architects having a national reputation, buildings or groups of buildings selected for inclusion in the National Park Service's Register of National Historic Landmarks, or unique examples illustrating American architectural development. In addition to the architectural significance of the buildings in this classification, they may be associated with historical events or persons that have national importance.
 - (2) *Category B, buildings of major architectural importance.* Buildings in this classification include outstanding examples of works by notable architects or builders; unique or exceptionally fine examples of a particular style or period when original details remain; buildings which make up an important, intact grouping or row, even when some of the buildings within the group have been defaced; and noteworthy examples of construction techniques when the original fabric of the building is basically intact.
 - (3) *Category C, buildings of architectural or historical importance.* This category includes buildings that are typical examples of architectural styles or types found in the city, when the building retains its original architectural details and makes a notable contribution to the overall character of a particular area of the central business district. In some cases, buildings of lesser architectural importance will be included in this category if they introduce an important keynote to an area or have specific historical significance related to either an historical event or person.
 - (4) *Category D, important buildings that have been altered.* This category generally includes important buildings dating from the 19th century that have had much of their exterior architectural details removed or covered. Due to their scale and basic construction, however, these buildings still make a notable contribution to the overall character of a particular area. If a building in this classification were to be properly restored or renovated, the rating would automatically be raised.
 - (5) *Category E, buildings that contribute to the scene.* These buildings generally date from the late 19th century or early 20th century and are typical examples of an architectural period or style. Though these buildings are of lesser stylistic importance, and are frequently quite modest in appearance, they are important to the character of the area due to scale, materials, and/or age.
 - (6) *Category F, unrated buildings.* These are buildings which have not been given a specific architectural rating. These buildings are generally 20th century structures that have no real architectural value.
- Violator(s)** means any person(s), firm(s), or corporation(s) owning property, including their lessee(s), tenant(s), agent(s), employee(s), or any person(s) acting or claiming to act on their behalf, and/or contractor(s) or any individual(s) retained by any person(s), firm(s), or corporation(s) owning property, including their lessee(s), tenant(s), agent(s), employee(s), or any person(s) acting or claiming to act on their behalf to construct, renovate or modify a structure or perform site improvements that is executed in a manner inconsistent with this Chapter, and/or transferor(s) of property responsible for deviations of this Chapter at the time of said transfer.
- (M.C.S., Ord. No. 20626, § 1, 4-4-02; M.C.S., Ord. No. 23553, § 1, 5-21-09)
- Cross reference— Definitions generally, § 1-2.
- Sec. 84-133. - Enforcement.**
- (a) Upon request, the department of safety and permits may aid the commission in making all necessary inspections in connection with the enforcement of this article, and furnish the commission with copies of the reports of their inspections. Employees of the department of safety and permits shall have the same right to inspect premises in connection with the enforcement of this article as they now have in relation to zoning and other violations under the jurisdiction of such department.
 - (b) The commission, through its director or other appropriate officer, shall send notices by certified mail to all violator(s) who may be in violation of the provisions of this article or the rules and procedures of the commission and inform them of such violations. If such a violation has been noted and the violator(s) informed of the violation, and the violation has not been corrected within 30 days from the mailing of the notice, then the commission, through its director, shall prosecute or cause to have prosecuted such violations of this article in accordance with the procedures for administrative adjudication established in chapter 6 of the Code of the City of New Orleans, or in the municipal court of the city, or in such other court of competent jurisdiction as may be proper, either civil or criminal. If a violator(s), in good faith, has begun the process of correcting noticed violations but has not completed the correction(s) within said 30-day correction period, adjudication may be stayed pending completion. This determination is at the sole discretion of the director of the New Orleans Historic District Landmarks Commission.

- (c) Failure to comply with the provisions of this article or the rules and procedures of the commission shall constitute a violation hereof and may be punishable by a fine of not less than \$100.00 not more than \$500.00 per day for each day that the violation continues. If such violation continues for more than ten days, in addition to such fine, by imprisonment for not more than 60 days.
- (d) The commission, through its director or other appropriate officer, shall have the right to enforce any violations of this article or the rules and procedures of this commission by proceeding in accordance with the procedures for administrative adjudication established in chapter 6 of the Code of the City of New Orleans, or by civil action for injunctive relief, or by other appropriate remedy brought on in the name of the city, including the stoppage of any work attempted without or contrary to a certificate of appropriateness issued under this article.

(Ord. No. 19,866, § 2, 10-19-00; M.C.S., Ord. No. 23553, § 1, 5-21-09)

Sec. 84-134. - Appeals.

- (a) Any person aggrieved by any decision, act or proceeding of the commission shall have a right to apply in writing to the city council for reversal or modification thereof, and the president of the city council shall have the right to stay all further action until the city council may affirm a decision of the commission by majority vote of all its members. Any such appeal shall be taken within ten days from the date of decision; and the city council may consider the appeal at its next general or special meeting, but in any event not more than 45 days after. The city council has the right to reverse, change, or modify any decision of the commission only by a majority vote of all its members.
- (b) Any person aggrieved by any decision of the city council affecting such district shall have the right to file a civil suit within 30 days from the date of decision in a court of competent jurisdiction under the usual rules of procedure governing same with the right to stay orders and injunctive relief provided the situation warrants it.

Secs. 84-135—84-155. - Reserved.

DIVISION 2. – CENTRAL BUSINESS DISTRICT HISTORIC LANDMARKS COMMISSION

Sec. 84-156. - Created.

The city council hereby creates a commission to be known as the central business district historic district landmarks commission, to be commonly known as the CBD historic district landmark commission for the purpose of regulating historic districts and historic landmarks designated with the central business district of the city pursuant to state constitution of 1974 and acts 273 of 1974 and 804 of 1975 and the provisions of this article.

Sec. 84-157. - Membership.

- (a) **Qualifications.** Members of the commission shall be electors of and domiciled in the city.
- (b) **Appointment.** Members of the commission shall be appointed by the mayor as follows:
 - (1) One from a list of two persons recommended by the Warehouse District Neighborhood Association, who shall be a resident, property owner or have their principal place of business in the Central Business District;
 - (2) One from a list of two persons recommended by the Downtown Development District;
 - (3) One from a list of two persons recommended by the New Orleans Chapter of the American Institute of Architects;
 - (4) One from a list of two persons recommended by the Preservation Resource Center;
 - (5) One from a list of two persons recommended by the Lafayette Square Association who shall be a resident, property owner or have their principal place of business in the Central Business District;
 - (6) One from a list of two persons recommended by the New Orleans Business Alliance;
 - (7) One from a list of two persons recommended by the Chamber of Commerce;
 - (8) Two persons appointed at-large by the mayor who shall be residents, property owners or have their principal place of business in the Central Business District;
 - (9) One person from a list of two persons recommended by the District Councilmember representing the upriver side of Canal Street who shall serve at-large and who shall be a resident, property owners or have their principal place of business in the Central Business District; and
 - (10) One person from a list of two persons recommended by the District Councilmember representing the downriver side of Canal Street who shall serve at-large and who shall be a resident, property owners or have their principal place of business in the Central Business District.
- (c) **Terms of office.** The commission shall consist of eleven members appointed by the mayor as herein provided subject to approval of a majority vote of the city council for four-year terms each, except that effective June 30, 2018 the terms of members of the commission shall be staggered as follows:
 - (1) The Downtown Development District and A.I.A. memberships shall expire June 30, 2018;
 - (2) The New Orleans Business Alliance membership and the Warehouse District shall expire June 30, 2019;

- (3) The Preservation Resource Center and the Lafayette Square Association memberships shall expire June 30, 2020;
- (4) The Chamber of Commerce memberships shall expire July 30, 2021; and
- (5) The four at-large memberships shall expire June 30, 2022.

Successors shall serve four-year terms thereafter. A chairman and vice-chairman shall be elected annually from the members of the commission.

- (d) **Vacancies.** Vacancies on the commission shall be filled for the remainder of the unexpired terms. Vacancies shall be filled by appointment in the same manner as original appointments.
- (e) **Compensation.** All members shall serve without compensation.

Sec. 84-158. - Powers and duties granted.

The commission shall exercise only those powers and duties granted by this article or those powers and duties which may be assigned to it at a later time by the city council.

Sec. 84-159. - Applicability of powers.

The regulatory powers conferred upon the commission shall apply to all private property in the area controlled by the commission, including all buildings, structures, areas, sites, and their adjuncts and appurtenances, insofar as they constitute part of the entirety or toute ensemble of a district or landmark site, and public and private utility facilities of South Central Bell Telephone Company or any other utility providing telecommunications services and New Orleans Public Service Inc., or any other utility providing electric or gas service, located on public or private property, including, but not limited to electric substations and telephone exchanges. Any governmental agency, other than the city council, having a responsibility for any building, structure, area, site, public way and their adjuncts and appurtenances within a district or landmark site shall seek the advice of the commission prior to the initiation of any substantive change, modification, renovation, restoration, alteration, construction, or demolition.

(M.C.S., Ord. No. 17,502, § 1, 4-18-96)

Sec. 84-160. - Landmark powers.

The commission shall exercise the following landmark powers:

- (1) Name or designate a building together with its accessory buildings and its lot of record or any part thereof, or name or designate vacant sites not in excess of five acres as historic and worthy of preservation as a landmark within the jurisdiction of the commission. Buildings and sites not encompassed by this subsection may be designated as a landmark by the commission, but such determination shall be ratified by a majority vote of the city council.

- (2) Recommend appropriate legislation for the preservation of any building, structure, site, monument, area, or other landmark which it has so named or designated.
- (3) Make application for public and private funds when appropriate and available.
- (4) Review applications proposing the erection, alteration, restoration, or moving of any building, structure, site, monument, area, or other landmark which it has so named or designated, and issue or deny certificates of appropriateness accordingly.
- (5) Review all applications for demolition permits proposing demolition of all or part of any building, structure, monument or other landmark which it has so named and designated, and to issue certificates of appropriateness or to deny them for one year.
- (6) Work with the owner of landmark property throughout the year following a refusal to issue a certificate of appropriateness pursuant to an application for a demolition permit, and seek alternative economic uses for the landmark property.
- (7) Renew its denial of a certificate of appropriateness for demolition of landmark property for additional one-year periods indefinitely thereafter, following a public hearing each time at which the owner of the affected property shall be afforded an opportunity to appear with counsel and present testimony.
- (8) Prohibit the issuance of demolition permits affecting any property under consideration for landmark designation, such prohibition to remain in effect for the length of time required by the commission for final action on the proposed landmark.
- (9) Prohibit the issuance of building and exterior remodeling permits affecting any property under consideration for landmark designation unless the commission's staff has determined that the application is for ordinary maintenance and the remodeling is determined to be more appropriate to the style and period of the building by means of documenting the original appearance of parallel structures or the commission has determined that the application conforms with the criteria set forth in Division 3 of this article, such prohibition to remain in effect for the length of time required by the commission for final action on the proposed designation. In all instances the commission shall regulate the exterior of a landmark.

Sec. 84-161. - Additional powers.

The commission shall have the following additional powers:

- (1) Make periodic reports to the city council;
- (2) Provide information to property owners and others, involving the preservation of the district;
- (3) Suggest pertinent legislation;
- (4) Recommend planning and zoning proposals;
- (5) Cooperate with other regulatory agencies and civic organizations and groups interested in historic preservation;
- (6) Review all applications for zoning variances, changes and conditional uses where they affect the district;
- (7) Render advice with reference to sidewalk construction and repair, tree planting, street improvements, and also the renovation, restoration, or construction of public buildings;
- (8) Furnish information and assistance in connection with public buildings;
- (9) Furnish information and assistance in connection with any capital improvement program involving the historic area;
- (10) Consult with the National Trust for Historic Preservation and other expert groups;
- (11) Administer such financial mechanisms as the city council may establish for the welfare of the city within a district and collect fees subject to city council approval; and
- (12) Appoint advisory boards from time to time and promulgate operational rules and procedures, which rules and procedures shall be submitted to the city council for ratification in order for the commission to implement the powers and authority granted to the commission by this article.

Secs. 84-162—84-185. - Reserved.

DIVISION 3. – CERTIFICATES OF APPROPRIATENESS

Sec. 84-186. - Required; exception.

- (a) No permit shall be issued by the department of safety and permits which affects a site or structure in any district or a landmark or landmark site without a certificate of appropriateness.
- (b) Nothing contained in this division shall prevent the making of any temporary construction, reconstruction, demolition or other repairs on a landmark, landmark site, or building in a district pursuant to the order of any governmental agency or court for the purpose of remedying emergency conditions determined to be dangerous to life, health or property provided that in cases of demolition, prior notice of such action shall be given to the commission.

Sec. 84-187. - Criteria for issuance.

The commission shall adhere to and seek compatibility of structures in the district and in so doing, the following guidelines shall be considered by the commission in passing upon applications for certificates of appropriateness:

- (1) *New construction.*
 - a. All new construction shall be visually compatible with the buildings and environment with which they are related.
 - b. The general design, scale, gross volume, arrangement of the site plan, texture, material and exterior architectural features of new construction shall be in harmony with its surroundings and shall not impair the toute ensemble of the neighborhood.
 - c. No one architectural style shall be imposed.
 - d. Quality and excellence in design should be major determinants.
- (2) *Exterior alterations.*
 - a. All exterior alterations to a building itself and other buildings with which it is related, as provided in subsection (1)b of this section and in applying these standards, the original design of the buildings may be considered.
 - b. Exterior alterations shall not affect the architectural character or historical quality of the building.
- (3) *Signs.*
 - a. The scale, and design of any sign should be compatible with the buildings and environment with which it is related.
 - b. The materials, style, and patterns used in any sign should be compatible with the buildings and environment with which it is related.
- (4) *Demolition.* In considering an application for the demolition of a landmark or a building in an historic district, the following shall be considered:
 - a. The historic or architectural significance of the building.
 - b. The importance of the building to the toute ensemble of the district.
 - c. The special character and aesthetic interest that the building adds to the district.
 - d. The difficulty or impossibility of reproducing such a building because of its design, texture, material, or detail.
 - e. The future utilization of the site.
- (5) *Nonconforming use.* The reconstruction of buildings legally nonconforming as to use and destroyed by fire, storms, or other acts of God shall be governed by the provisions of the zoning ordinance except that the commission shall regulate the exterior design of such buildings in accordance with the criteria set forth in this division.

Sec. 84-188. - Application.

- (a) **Commission to prescribe application procedure.** The commission shall prescribe the procedure for making application for a certificate of appropriateness.
- (b) **Preliminary conference.** The applicant shall, upon request, have the right to a preliminary conference, with the commission staff and any member of the commission who chooses to attend after receiving a notice thereof, for the purpose of making any changes or adjustments to the application which might be more consistent with the commission's standards.
- (c) **Public hearing; notice.**
 - (1) The commission shall hold a public hearing upon each application for a certificate of appropriateness affecting property under its control except in those instances where the commission has determined the application for a certificate of appropriateness does not involve a material change or the commission has determined that the application complies with the standards adopted by the commission, in which case the commission shall by appropriate means designate its approval.
 - (2) Notice of the time and place of the hearing shall be given by publication in the form of a legal advertisement appearing in the official journal of the city or in a newspaper having general circulation in the parish, at least seven days prior to the date of such hearing, and by posting such notice on or near the main entrance of any hall or room where the commission usually meets. In addition, notices shall be mailed at least seven days prior to the date of such public hearing to the following:
 - a. All persons owning property on both sides of the property subject to the application;
 - b. The applicant;
 - c. The director of the city planning commission; and
 - d. The director of the department of safety and permits.
- (d) **Approval or denial; time limit; written notice.** Within not more than 45 days after the filing of an application, the commission shall act upon it, either approving, denying or deferring action, giving consideration to the factors set forth in this division. Evidence of approval of the application shall be by certificate of appropriateness issued by the commission and whatever its final decision notice in writing shall be given to the applicant, the city planning commission, and the department of safety and permits. The commission shall keep a record of all its actions under this article or its rules and procedures.
- (e) **Changes and modifications.** The commission shall have the right to make such recommendations for changes and modifications as it may deem to be necessary in order to enable the applicant to meet its requirements.

Sec. 84-189. - Variances.

Where, by reason of topographic conditions, irregularly shaped lots, or because of unusual circumstances applicable solely to the particular applicant, strict enforcement of the provisions of this article would result in serious undue hardship particularly affecting the applicant, then the commission, in passing upon the application shall have the power to vary or modify adherence to this article; provided always that its requirements ensure harmony with the general purposes hereof and will not adversely affect an historic preservation district as a whole or any designated landmark. Guidelines for the application of this subsection shall be developed by the commission as part of its operational rules and procedures.

Sec. 84-190. - Expiration.

All certificates of appropriateness shall expire not later than six months, or such lesser period as designated by the staff of the commission, after date of issuance if work as specified is not begun or after a period of six months or such designated lesser period of insubstantial activity. Substantial work shall, to protect the continued validity of such certificate of appropriateness, proceed expeditiously to completion.

Sec. 84-191. - Posting.

The applicant shall post the certificate of appropriateness on the exterior of the building where plainly visible for public inspection during the period of construction.

Sec. 84-192. - Division not to effect comprehensive zoning ordinance.

Nothing contained in this section shall be construed as amending or revoking the provisions of the comprehensive zoning ordinance of the city, M.C.S., Ordinance No. 4,264, as amended.

Secs. 84-193—84-215. - Reserved.

DIVISION 4. - REGULATIONS

Sec. 84-216. - Historic district.

- (a) No private building, structure, or edifice, including fences, boundary walls, signs and paving shall be erected, altered, restored, moved, or demolished within any district until after an application for a certificate of appropriateness as to exterior architectural features has been submitted to and approved by the commission. Similarly, if earthworks of historical or archaeological importance exist in a district, there shall be no excavation or moving of earth, rock, or subsoil without a certificate of appropriateness. For the purpose of this article, exterior architectural features shall include but not be limited to the architectural style, scale, general design and general arrangement of the exterior of a structure, including the kind and texture of the building material, the type and style of all roofs, windows, doors, and signs. The style, scale, materials, and location of outdoor advertising signs and bill posters within a district shall also be under the control of the commission.
- (b) The commission shall not consider interior arrangement or use, but shall consider the relationship of the exterior of the building concerned with all others in the district so as to avoid incongruity and promote harmony therewith. In all instances, the commission shall regulate those outside surfaces of a building that can be viewed from a public right-of-way or street.
- (c) The commission shall review all buildings within the district and shall, after a public hearing, categorize all such buildings as to ratings of significance.
- (d) Nothing in this article shall be construed to prevent ordinary maintenance or repairs which do not involve a change of design, material, or of the outward appearance of a building.

Sec. 84-217. - Landmarks designation.

- (a) **Procedure.** The following procedure shall be followed in designating a landmark any building, structure, site, or monument worthy of preservation:
 - (1) The commission shall nominate for landmark designation any property on the motion of any commission member and seconded by two additional commission members. Such motion shall only be made after notification of the proposed nomination is made to the owner of record by certified mail at least 14 days prior to such nomination.

- (2) Notice of a proposed designation shall be sent by registered mail to the owner of property nominated for landmark designation, describing the property proposed and announcing a public hearing by the commission to consider the designation. At least ten days prior to the public hearing, as described in subsection (a)(5) of this section, the commission shall provide to the owner of the property copies of any written reports and other documentary evidence which it intends to present at the public hearing regarding the historic and architectural importance of the property under consideration for landmark designation.
- (3) The commission shall also send notice of the nomination to all city agencies having previously requested notification of such proceedings and to other parties customarily informed by the commission of such proceedings.
- (4) The commission shall also cause notice of the nomination to be published at least 30 days prior to the public hearing in the official journal of the parish and shall post notice of the hearing in the place where the commission meets, and in addition, such notice may be also published in a newspaper having general circulation in the parish.
- (5) At the public hearing:
 - a. The commission may solicit expert testimony regarding the historic and architectural importance of the building, structure, site, monument, area, or other landmark under consideration for landmark designation.
 - b. The commission may present testimony or documentary evidence of its own to establish a record regarding the historic and architectural importance of the property under consideration for landmark designation.
 - c. The commission shall afford to the owner of the property reasonable opportunity to present testimony or documentary evidence regarding the historic and architectural importance of the property under consideration for landmark designation.
 - d. The owner of the property under consideration for landmark designation shall have the right of representation by counsel and reasonable opportunity to cross-examine witnesses presented by the commission.
 - e. Any interested party may present testimony or documentary evidence regarding the property under consideration for landmark designation at the public hearing and may submit to the commission documentary evidence within three days after the hearing.

- (6) Within 45 days after a public hearing, the commission shall render a final decision regarding the landmark designation and shall give written notice of its decision to the owner of the property setting forth the reasons therefor.
 - (7) The property shall remain under landmark nomination until the commission renders a final decision on the landmark designation.
 - (8) The commission shall maintain a record of all testimony and documentary evidence submitted to the commission for consideration during the landmark designation procedure.
 - (9) All landmark designations shall not be final until ratified by the city council at any regular or special meeting.
 - (10) Within 30 days of the date on which the commission ratifies the designation of any building, structure, site or monument as a landmark worthy of preservation, the commission shall cause to be filed in the conveyance office of the parish a certificate of notification that such property is designated a landmark, and such certificate of notification shall be maintained on the public record until such time as the landmark designation may be withdrawn by the commission or the city council.
- (b) **Plaque.** At such time as a landmark or landmark site has been finally established in accordance with this section, the commission may cause to be prepared and erected on the landmark or landmark site a suitable plaque declaring that such is a landmark or landmark site.

Sec. 84-218. - Demolition by neglect (Central Business District Historic District Landmark Commission).

- (a) Demolition by neglect is neglect in the maintenance of any building resulting in any one or more of the following:
 - (1) The deterioration of a building to the extent that it creates or permits a hazardous or unsafe condition as determined by the department of safety and permits.
 - (2) The deterioration of a building characterized by one or more of the following:
 - a. Those buildings which have parts thereof which are so attached that they may fall and injure members of the public or property.
 - b. Deteriorated or inadequate foundation.
 - 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 or deterioration.

- e. Members of walls 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 or deterioration.
 - g. Members of ceilings, roofs, 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 or deterioration.
 - i. Any fault, defect, or condition in the building which renders the building structurally unsafe or not properly watertight.
- (3) Action by the city, the state fire marshal, or the department of safety and permits relative to the safety or physical condition of any building.
- (b) If the commission determines that a building or landmark is being demolished by neglect, the owner of record shall be notified of this preliminary finding, stating the reasons therefor, and the owner of record shall be given 30 days from the date of notice in which to commence work rectifying the specifics provided by the commission. Such notice shall be accomplished in the following manner:
- (1) By certified mailing to the last known address of the owner of record; or
 - (2) Notice shall be attached to the building or landmark.
- (c) Upon the owner of record's failure to commence work, the commission shall notify the owner of record in the manner provided above to appear at an administrative enforcement hearing, pursuant to the procedures set forth in chapters 6, 26, and 28 of this Code. In addition, the city may cause such property to be repaired at its expense at such time as funds are appropriated; in which event, the city may file an affidavit of the director of the department of safety and permits to this effect in the office of the recorder of mortgages for the parish, which notice shall constitute a lien and privilege against the property. Failure to comply with the provisions of this article or the rules and procedures of the commission shall constitute a violation hereof and may be punishable by a fine not less than \$100.00 not more than \$500.00 per day for each day that the violation continues.

(Ord. No. 19,866, § 2, 10-19-00; M.C.S., Ord. No. 23046, § 4, 3-20-08; M.C.S., Ord. No. 23553, § 1, 5-21-09)