

AN ACT

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Columbia
Official Code

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Historic Landmark and Historic District Protection Act of 1978 to add protection for archaeological sites, to amend the definition of alterations, to establish the number of members that constitute the Historic Preservation Review Board, to provide for consultation with the State Historic Preservation Officer for undertakings involving buildings owned by the District of Columbia, to improve enforcement under the act, and to make clarifying amendments.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Historic Preservation Amendment Act of 2006”.

Sec. 2. The Historic Landmark and Historic District Protection Act of 1978, effective March 3, 1979 (D.C. Law 2-144; D.C. Official Code § 6-1101 *et seq.*), is amended as follows:

(a) Section 2(b) (D.C. Official Code § 6-1101(b)) is amended by adding a new paragraph (3) to read as follows:

Amend
§ 6-1101

“(3) With respect to archaeological sites designated as historic landmarks or contributing properties within historic districts:

“(A) To protect historic and prehistoric archaeological sites from irreparable loss or destruction; and

“(B) To encourage the retrieval of archaeological information and artifacts when the destruction of an archaeological site is necessary in the public interest.”.

(b) Section 3 (D.C. Official Code § 6-1102) is amended as follows:

(1) Paragraph (1) is amended to read as follows:

Amend
§ 6-1102

“(1) Alter or alteration means:

“(A) A change in the exterior appearance of a building or structure or its site, not covered by the definition of demolition, for which a permit is required;

“(B) A change in any interior space that has been specifically designated as an historic landmark;

“(C) The painting of unpainted masonry on a historic landmark or on a facade restored as a condition of a permit approved pursuant to this act; or

“(D) Excavation or action disturbing the ground at an archaeological site listed in the District of Columbia Inventory of Historic Sites or an archaeological site identified as a contributing feature in the designation of a historic landmark or historic district.”.

(2) Paragraph (3A) is amended by adding the word “substantial” before the word “deterioration”.

(3) Add a new paragraph (4A) to read as follows:

“(4A) “District of Columbia undertaking” means a project of the District of Columbia government that involves or contemplates demolition, alteration, subdivision, or new construction affecting a property owned by or under the jurisdiction of a District of Columbia agency, including an independent agency.”.

(4) Paragraph (6)(B) is amended by striking the phrase “pursuant to the procedures contained in section 4(c)(5)”;

(5) Add a new paragraph (6A) to read as follows:

“(6A) “Historic Preservation Office” or “HPO” means the administrative office that serves as the staff to the Historic Preservation Review Board, State Historic Preservation Officer, and Mayor in performing functions pursuant to this act.”.

(6) Paragraph (12) is amended by adding the phrase “or “SHPO”” after the word “Officer”.

(c) Section 4 (D.C. Official Code § 6-1103) is amended as follows:

(1) Subsection (a) is amended as follows:

(A) Strike the phrase “whose members” and insert the phrase “comprised of nine members who” in its place.

(B) Strike the last sentence.

(2) Subsection (b) is amended by adding new sentences at the end to read as follows:

“The term of office of each member of the Review Board shall be 3 years, staggered so that one third of the appointments expire each year. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed shall be appointed for the remainder of such term. Upon expiration of his or her term of office, a member shall continue to serve until his or her successor is appointed.

(3) Subsection (d) is amended as follows:

(A) Paragraph (1) is amended by striking the phrase “within 12 months of the denial” and inserting the phrase “during the 12-month period after the denial” in its place.

(B) Paragraph (2) is amended by striking the phrase “no more than 1 new application may be filed 12 months from the date that the application is withdrawn” and inserting the phrase “the Review Board shall not accept a new application for the same property during the 12-month period following the withdrawal” in its place.

(d) Section 5(c) (D.C. Official Code § 6-1104(c)) is amended by striking the phrase “if the Review Board has advised” and inserting the phrase “if the Review Board or Commission of

Amend
§ 6-1103

Amend
§ 6-1104

Fine Arts has advised” in its place.

(e) Section 5a (D.C. Official Code § 6-1104.01) is repealed.

(f) Section 5b (D.C. Official Code § 6-1104.02) is repealed.

(g) Section 5c (D.C. Official Code § 6-1104.03) is repealed.

(h) Section 6 (D.C. Official Code § 6-1105) is amended as follows:

(1) Subsection (d) is amended by striking the phrase "reasons therefor." and inserting the phrase "reasons therefor. If the Commission of Fine Arts recommends against granting the application, the Historic Preservation Office shall notify the applicant of the Commission of Fine Arts' recommendation." in its place.

(2) Add a new subsection (h) to read as follows:

“(h) If the Mayor finds that an alteration is necessary to allow the construction of a project of special merit, a permit shall not be issued unless the owner demonstrates the ability to complete the project.”.

(i) Section 7 (D.C. Official Code § 6-1106) is amended as follows:

(1) Subsection (c) is amended by striking the phrase "historic district" and inserting the phrase “historic district or a subdivision that assembles land with the lot of a historic landmark” in its place.

(2) Subsection (g) is amended by striking the phrase “no subdivision permit shall be issued” and inserting the phrase “no subdivision shall be permitted to record” in its place.

(j) Section 8 (D.C. Official Code § 6-1107) is amended as follows:

(1) Subsection (d) is amended by adding a new sentence at the end to read as follows: "If the Commission of Fine Arts recommends against granting the application, the Historic Preservation Office shall notify the applicant of the Commission of Fine Arts' recommendation.”.

(2) Subsection (f) is amended by adding a new sentence at the end to read as follows:

"Notwithstanding a finding of incompatibility, the Mayor may find that issuance of the permit is necessary to allow the construction of a project of special merit.”.

(k) Section 9 (D.C. Official Code § 6-1108) is amended as follows:

(1) Designate the existing text as subsection (a).

(2) Add new subsections (b) and (c) to read as follows:

“(b) A prospective permit applicant may apply to the Historic Preservation Review Board for conceptual review of a project for compliance with the provisions of this act relating to demolition, alteration, subdivision, or new construction. After receipt of such information as it may require, the Review Board shall consider the application without requiring the applicant to complete other permit requirements not necessary for its review. To assist in conducting conceptual review, the Review Board may appoint advisory committees composed of two or more Review Board members.

“(c) The Mayor shall not determine compliance with sections 5, 6, 7, or 8 based on an

Repeal
§§ 6-1104.01
6-1104.02,
6-1104.03
Amend
§ 6-1105

Amend
§ 6-1106

Amend
§ 6-1107

Amend
§ 6-1108

application for conceptual review, but the Mayor may consider the Review Board's recommendation on an application for conceptual review as evidence to support a finding on a related application submitted for review under sections 5, 6, 7, or 8."

(l) Add a new section 9b to read as follows:

"Sec. 9b. Effect of District undertaking; comment by State Historic Preservation Officer.

New
§ 6-1108.02

"Before authorizing the expenditure of funds for design or construction or seeking the permit, license, or approval for a District of Columbia undertaking, the Deputy Mayor, head of the subordinate agency, or head of the independent agency with direct jurisdiction over the undertaking shall take into account the effect of that undertaking on any property listed or eligible for listing in the District of Columbia Inventory of Historic Sites and shall consult with and afford the State Historic Preservation Officer a reasonable opportunity to comment on the undertaking."

(m) Section 10 (D.C. Official Code § 6-1109) is amended by striking the second sentence.

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§ 6-1109

(n) Add new sections 10a, 10b, and 10c to read as follows:

"10a. Violations.

"(a) It shall be unlawful for any person to alter, demolish, or construct any building or structure subject to the provisions of this act or to subdivide any property subject to the provisions of this act except in accordance with this act or any rules, regulations, permits, or orders issued pursuant to this act.

New
§ 6-1109.01

"(b) It shall be unlawful for any person acting under authority of or pursuant to a building permit or otherwise subject to this act to fail to complete any alteration, repair, construction, or other work required as a condition of any order, permit approval, or enforcement action issued in accordance with this act.

"Sec. 10b. Maintenance of property.

"(a) The owner of an historic landmark or a contributing building or structure within an historic district shall comply with all laws and regulations governing the maintenance of real property. The buildings or structures shall be preserved against decay and deterioration and shall be made and kept free from structural defects through prompt correction of defects, such as:

New
§ 6-1109.02

"(1) Facade or facade elements that may fall and injure persons or property;

"(2) Deteriorated or inadequate foundation, defective or deteriorated flooring or floor supports, deteriorated walls, or other vertical structural supports;

"(3) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that sag, split, or buckle due to defective material or deterioration;

"(4) Deteriorated or ineffective waterproofing of exterior walls, roofs, foundations, or floors, including broken windows or doors;

"(5) Defective or insufficient weather protection for exterior wall covering,

including lack of paint or weathering due to lack of paint or other protective covering; or

“(6) A fault or defect in the building or structure that renders it structurally unsafe or not properly watertight.

“(b) An owner who fails to maintain a building or structure in compliance with this section shall be subject to the remedial requirements of section 10c and the penalties under section 11.

“Sec. 10c. Prevention of demolition by neglect.

“(a) If the Mayor determines that an historic landmark or a contributing building or structure within a historic district is threatened by demolition by neglect, upon obtaining an order from the Superior Court of the District of Columbia, the Mayor may:

“(1) Require the owner to repair all conditions contributing to demolition by neglect; or

“(2) If the owner does not make the required repairs within a reasonable period of time, enter the property and make the repairs necessary to prevent demolition by neglect.

“(b) The cost of any work undertaken pursuant to subsection (a) of this section shall be charged to the owner and may be levied by the District of Columbia as a special assessment against the real property. The special assessment shall be a lien against the real property.”.

(o) Section 11 (D.C. Official Code § 6-1110) is amended as follows:

(1) The heading is amended to read as follows:

“Sec. 11. Penalties; remedies; enforcement.

(2) Subsection (a) is amended as follows:

(A) Strike the phrase "not more than \$1,000" and insert the phrase “not more than \$1,000 for each day a violation occurs or continues” in its place.

(B) Strike the phrase "All prosecutions" and insert the phrase "Any prosecution" in its place.

(C) Strike the phrase “Corporation Counsel or any of his assistants” and insert the phrase “Office of Attorney General for the District of Columbia” in its place.

(3) Subsection (b) is amended by striking the phrase "shall be brought by the Corporation Counsel" and inserting the phrase “shall be brought in the name of the District of Columbia in the Superior Court of the District of Columbia by the Office of Attorney General for the District of Columbia” in its place.

(4) Add a new subsection (d) to read as follows:

“(d)(1) The Historic Preservation Office shall be responsible for enforcement of the provisions of this act.

(2) The Mayor may delegate to the Historic Preservation Office coordinated enforcement of Building Code provisions applicable to preservation of historic landmarks and historic districts pursuant to a written agreement with and under the authority of the Building Code Official.”.

(p) Add a new section 11a to read as follows:

New
§ 6-1109.03

Amend
§ 6-1110

ENROLLED ORIGINAL

“Sec. 11a. Historic Landmark-District Protection Fund; establishment.

New
§ 6-1110.01

“(a) There is established within the General Fund of the District of Columbia, the Historic Landmark-District Protection Fund ("HLP Fund") as a nonlapsing, revolving fund; the funds of which shall not revert to the General Fund at the end of any fiscal but shall remain available, without regard to fiscal year limitation, pursuant to an act of Congress, for the purpose of paying the costs of repair work necessary to prevent demolition by neglect as described in section 10c or for the costs of carrying out any other historic preservation program consistent with the purposes of and pursuant to this act.

“(b) There shall be deposited into the HLP Fund:

“(1) Such amounts as may be appropriated for the fund;

“(2) Grants or donations from any source to the fund or to the District of Columbia for the purposes of the fund;

“(3) Interest earned from the deposit or investment of monies of the fund;

“(4) Amounts assessed and collected as costs or penalties under this act, or otherwise received to recoup any amounts, incidental expenses, or costs incurred or expended for purposes of the fund, or any sums received pursuant to a resolution or settlement of disputes or enforcement actions under this act where the resolution or settlement provides in writing for such payment;

“(5) All other receipts derived from the operation of the fund; and

“(6) The proceeds from the sale of real or personal property or other items of value from any source donated to the fund or to the District of Columbia for the purposes of the fund.

“(c) The Mayor shall include in the budget estimates of the District of Columbia for each fiscal year such amount as may be necessary for capitalization of the HLP Fund.”.

(q) Section 14 (D.C. Official Code § 6-1113) is amended to read as follows:

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§ 6-1113

“Sec. 14. By April 1 of each year, the Mayor shall transmit to the Council a detailed report on the implementation of this act, including:

“(1) The number of applications reviewed pursuant to sections 5, 6, 7, and 8 for historic landmarks and each historic district, categorized by type of application;

“(2) The number of such applications granted after a public hearing; specifying for each such application the nature of the requested permit, the nature of the applicant’s claim, whether or not economic hardship was found, whether or not it was found to be in the public interest and on what grounds; and

“(3) The financial condition of the HLP Fund, including:

“(A) The results of the operations and collections for the preceding fiscal year;

“(B) An accounting of receipts and expenditures;

“(C) An itemization of the amounts of unrecovered costs, taxes, and penalties;

ENROLLED ORIGINAL

- “(D) The names of delinquent property owners; and
- “(E) The nature of corrected building violations.”.

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia