

Chapter 161 Codified Ordinances Landmarks Commission

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CROSS REFERENCES

Regulations for erecting memorials, CO 105.11

161.01 Declaration of Public Policy and Purpose

Council hereby declares as a matter of public policy that the preservation, protection, perpetuation and use of areas, places, buildings, structures, works of art and other objects having a special historical, community or aesthetic interest or value is a public necessity and is required in the interest of the health, prosperity, safety and welfare of the people. The purpose of this chapter is to:

- a. Safeguard the heritage of the City by preserving sites and structures which reflect elements of the City's cultural, social, economic, political or architectural history;
- b. Stabilize and improve property values;
- c. Strengthen the economy of the City;
- d. Protect and enhance the City's attractions to residents, tourists and visitors, and serve as a support and stimulus to business and industry;
- e. Enhance the visual and aesthetic character, diversity and interest of the City;
- f. Foster civic pride in the beauty and notable accomplishments of the past;
- g. Promote the use and preservation of historic sites and structures for the education and general welfare of the people of the City; and
- h. Take whatever steps are necessary to safeguard the property rights of the owners whose property is declared to be a landmark or is located in an area designated as a landmark district. (Or. No. 505-72. Passed 6-19-72, eff. 6-23-72)

161.02 Definitions

As used in this chapter, unless the context clearly requires otherwise:

- a. "Alteration" means any material change in the external architectural features of any improvement which has been designated a landmark or which is situated in a landmark district, less than demolition, removal or construction of any such improvement.
- b. "Applicant" means any person, persons, association, partnership or corporation who applies for a certificate of appropriateness in order to undertake any environmental change as property subject to this chapter.
- c. "City Council" means Council of the City of Cleveland.
- d. "Commission" means the Cleveland Landmarks Commission established under the provisions of this chapter.
- e. "Environmental change" means any alteration, demolition, removal or construction of any property subject to the provisions of this chapter.
- f. "Improvement" means any place, building, structure, work of art or similar object constituting a physical betterment of real property, or any part of such betterment.

- g. "Improvement Parcel" means the unit of property which includes a physical betterment constituting an improvement and the land embracing the site thereof, which is treated as a single entity for the purpose of levying real estate taxes. However, any vacant parcel of land is excluded.
- h. "Landmark" means any improvement which has special character or special historical or aesthetic value as part of the development, heritage, or cultural characteristics of the City, State, or the United States and which has been designated as a landmark pursuant to the provisions of this chapter. However, "landmark" may also include the improvement parcel, or part thereof, on which a landmark is situated.
- i. "Landmark district" means any area designated by the Commission as an area containing any physical features or improvements or both which are of historical, social, cultural, architectural or aesthetic significance to the City of Cleveland, State of Ohio, or the United States, and cause such area to constitute a distinctive section of the City of Cleveland.
- j. "Member" means any member of the Commission.
- k. "Owner" means the owner of record and includes the plural as well as the singular. (Ord. No. 2458-79. Passed 12-17-79, eff. 12-19-79)

161.03 Landmarks Commission, Composition and Terms

There is hereby created the Cleveland Landmarks Commission. The Commission shall consist of eleven members, seven of whom shall be appointed by the Mayor, subject to the confirmation of Council. The remaining members shall be the Commissioner of Architecture, or his designee, the Director of the City Planning Commission, or his designee, who shall act as Secretary of the Landmarks Commission and two members appointed by the Council President to serve during the term of such Council. Members to be appointed by the Mayor shall be chosen from nominations made by the Western Reserve Historical Society, the Cleveland Chapter of the American Institute of Architects and the Early Settlers Association. At least one member shall be an owner of commercial or industrial real property; at least one member shall be a registered architect; at least one member shall be a historian qualified in the field of historic preservation; at least one member shall be a licensed real estate broker; at least one member shall be an attorney and all members shall have, to the highest extent practicable, a known interest in landmarks preservation.

The terms of members appointed by the Mayor next after the expiration of the two-year terms of the members of the Commission existing on the effective date of this section shall be: two (2) members, two-year terms; and five (5) members, four (4) year terms. Thereafter, the terms of all members appointed by the Mayor shall be four (4) years. The terms of members appointed by the President of Council shall be four (4) years. Members may be reappointed. Members appointed by the Council President shall be appointed for terms of four (4) years.

The members shall select a Chairman and Vice-Chairman to serve for two (2) year terms. The members shall serve without compensation. (Ord. No. 3143-83. Passed 6-18-84, eff. 6-22-84)

161.04 Designation of Landmarks and Landmarks Districts

- A. In considering the designation of any area, place, building, structure, work of art or similar object in the City as a landmark or landmark district, the Commission shall apply the following criteria with respect to such property:
 - 1. Its character, interest or value as part of the development, heritage or cultural characteristics of the City, State or the United States;
 - 2. Its location as a site of a significant historic event;
 - 3. Its identification with a person who significantly contributed to the culture and development of the City;
 - 4. Its exemplification of the cultural, economic, social or historic heritage of the City;
 - 5. Its portrayal of the environment of a group of people in an era of history characterized by a distinctive architectural style;
 - 6. Its embodiment of distinguishing characteristics of an architectural type or specimen;
 - 7. Its identification as the work of an architect or master builder whose individual work has influenced the development of the City;
 - 8. Its embodiment of elements or architectural design, detail, materials, or craftsmanship which represent a significant architectural innovation;
 - 9. Its relationship to other distinctive areas which are eligible for preservation according to a plan based on an historic, cultural, or architectural motif;
 - 10. Its unique location or singular physical characteristic representing and established and familiar visual feature of a neighborhood, community or the City.

- B. The Commission shall propose designations of any area, place, building, structure, work of art or similar object in the City as a landmark or landmark district, and thereupon take the following actions:
1. The Landmarks Commission shall advise the City Planning Commission of the proposed designation and secure from the Planning Commission its recommendation with respect to the relationship of the proposed designation to the comprehensive plan of the City, its opinion as to the effect of the proposed designation upon the surrounding neighborhood and its opinion and recommendation as to any other planning consideration which may be relevant to the proposed designation, together with its recommendation of approval, rejection or modification of the proposed designation. The recommendation shall become part of the official record concerning the proposed designation and shall be submitted by the Landmarks Commission along with its recommendation concerning the proposed designation to Council. The Landmarks Commission may make such modifications, changes and alterations concerning the proposed designation as it deems necessary in consideration of the recommendation by the Planning Commission.
 2. The Landmarks Commission shall thereafter notify the owner of such property of the proposed designation. Whenever possible, the Commission shall secure the owner's written consent for submittal of the proposed designation, together with its recommendation and findings of fact to Council. In the event that the owner refuses or declines to give his written consent to the proposed designation, the Commission shall schedule a public hearing on the question of the proposed designation, setting forth a date, time and place and causing written notice to be given to the owner or any person having a legal or equitable interest in the property being proposed for designation. The Commission shall cause a legal notice to be published in a newspaper of general circulation in the City setting forth the nature of the hearing, the property involved and the date, time and place of the scheduled public hearing.
 3. The Commission shall conduct the public hearing as provided by subsection (b)(2) hereof and provide a reasonable opportunity for all interested parties to express their opinions under such rules as the Commission may adopt for the purpose of governing the proceedings of the hearings. Each speaker shall be fully identified as to name, address and the interests which he represents. The Commission shall make a determination with respect to the proposed designation in writing within fifteen days after the initial hearing date and shall notify any owner or any person having a legal or equitable interest in the property, as well as such other interested parties as may request a copy thereof. The Commission shall set forth in its recommendations such findings of fact which constitute the basis for its decision and shall transmit the recommendation concerning the proposed designation to Council.
 4. Council shall give due consideration to the findings and recommendations of the Commission, as well as such views as may have been expressed by persons participating in the hearing before the Commission, in addition to the recommendation of the City Planning Commission, in making its determination with respect to the proposed designation for any areas, places, buildings, structures, works of art and other similar objects as landmarks or landmark districts. Council may, in its discretion, hold public hearings on any such proposed designation, whether designation is proposed only with the consent of the owner, or after public hearings before the Commission. Upon its conclusion, Council may designate by ordinance the areas, places, buildings, structures, works of art and other similar objects as a landmark or landmark district.
 5. As soon as is reasonably possible, the Commission shall notify the Division of Building of the official designation. The Commission shall also file with the County Recorder of Deeds and the County Assessor a certified copy of the designation ordinance together with a notice briefly stating the fact of designation and a summary of the effects the designation will have. The Commission, further, shall send by registered mail a certified copy of the ordinance and a copy of the notice hereinabove described to the owner and any person having a legal or equitable interest in the property.
 6. Notwithstanding any provision of this chapter, Council may rescind the designation of any area, place, building, structure, work of art, or similar object as a landmark or landmark district by ordinance. Passage of such an ordinance shall relieve the owner of such area, place, building, structure, work of art or similar object from any duties or penalties contained in this chapter. (Ord. No. 505-72. Passed 6-19-72, eff. 6-23-72)

161.05 Regulation of Environmental Changes; Certificate of Appropriateness

No person owning, renting or occupying property which has been designated a landmark or which is situated in a designated landmark district shall make any environmental change in such property unless a certificate of appropriateness has been previously issued by the Commission with respect to such environmental change. The

following procedures shall apply to all alterations, demolitions, removals or constructions of such property in the City;

- A. Any application to the Division of Building for a building permit for an environmental change shall also be deemed an application for a certificate of appropriateness, and shall be forwarded to the Commission, together with copies of all detailed plans, designs, elevations, specifications and documents relating thereto, within seven days after receipt thereof. An application for a certificate of appropriateness may be filed by the applicant directly with the Commission at the same time that an application for a building permit is filed or in lieu of filing of a building permit, if no building permit is required for the proposed environmental change.
- B. If the Commission finds that the environmental change proposed by the applicant will not adversely affect any significant historical or aesthetic feature of the property and is appropriate and consistent with the spirit and purpose of this chapter, or will remedy conditions imminently dangerous to life, health or property, as determined in writing by the Division of Building or the Division of Fire or the Department of Public Health and Welfare, then the Commission shall issue a certificate of appropriateness.
- C. If the Commission finds that the environmental change proposed by the applicant will adversely affect any significant historical or aesthetic feature of the property or is inappropriate or inconsistent with the spirit and purposed of this chapter, the Commission shall disapprove the application and so advise the applicant in writing and the Division of Building in writing within thirty days after receiving the application.
- D. If it disapproves the application for a certificate of appropriateness, the Commission shall have the power to impose and enforce a waiting period of six months from the date of its notice of disapproval, during which period the Commission shall conduct negotiations with the applicant and any other party in an effort to find a means of preserving the property as follows:
 - 1. With respect to an application involving an alteration, the Commission and the applicant shall work together during the period to find a mutually agreeable method of completing the proposed environmental change.
 - 2. With respect to an application involving a demolition, removal or construction, the Commission may in its discretion extend the original waiting period of six months to one year. During the period and any extension thereof the Commission and the applicant shall undertake meaningful and continuing discussions for the purpose of finding a method of saving such improvement. The Commission shall also investigate the feasibility of all available ways and means of preserving the improvement, including without limitation, inducing by contract or other consideration the creation of covenants restricting the use of the property, leasing and subleasing the property for the purposes of preservation and acquiring by eminent domain or contact or conveyance all or any part of or interest in the property.

If the Commission and the applicant do not agree on a means of preserving the improvement within the waiting period or any extensions thereof, the Commission upon the expiration of such waiting period or extension thereof shall issue a certificate of appropriateness with respect to the proposed environmental change.
- E. Upon issuance of a certificate of appropriateness, the Commission shall give written notices of the issuance to the applicant and the Division of Building.
- F. If no action has been taken by the Commission on an application for a certificate of appropriateness within forty-five (45) days after such application ahs been received by the Commission, the certificate of appropriateness shall be deemed issued. (Ord. No. 96-87. Passed 4-27-87, eff. 4-329-87)

161.06 Powers and Duties of Commission

The Commission shall have the following powers and duties in addition to those otherwise specified in this chapter:

- A. The Commission shall conduct a continuing survey of all areas, places, buildings, structures, works of art or similar objects in the City which the Commission, on the basis of information available or

presented to it, has reason to believe are or will be eligible for designation as landmarks or landmark districts;

- B. The Commission shall work for the continuing education of the citizens of the City with respect to the historic and architectural heritage of the City and the landmarks and landmark districts designated under the provisions of this chapter. It shall keep current and publish a register of landmarks and landmark districts;
- C. The Commission shall have authority to establish, within the spirit and purposes of this chapter, criteria, rules, and regulations for evaluating applications for certificates of appropriateness submitted to is and the manner in which they shall be processed;
- D. The Commission may accept the services on a permanent or part-time basis of technical experts and such other persons as may be required to perform its duties. (Ord. No. 339-73. Passed 3-12-73, eff. 3-20-73)

161.07 Certain Changes Not Prohibited

Nothing in this chapter shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature of any property which has been designated a landmark or which is situated in a designated landmark district that does not involve a change in design, material color or outer appearance thereof, nor to prevent any environmental change that the Division of Building, Division of Fire or Department of Public Health and Welfare shall certify in writing is required by the public safety because of an unsafe or dangerous condition. (Ord. No. 84-71. Passed 6-21-71, eff. 6-23-71)

161.08 Plaques Identifying Cleveland Landmarks and Landmark Districts

The Secretary to the Landmarks Commission is hereby authorized to enter into contract for the making of plaques which identify Cleveland landmarks and landmark districts and to sell such plaques to be used to mark individual landmarks and properties within landmark districts at a fee of two hundred dollars (\$200.00) per plaque. (Ord. No. 1881-93. Passed 9-13-93, eff. 9-16-93)

161.09 Minimum Maintenance Requirements

- A. Every Owner, operator, or agent of any property which has been designated a Landmark or is situated in a designated Landmark district shall keep in good repair all of the exterior portions of each Improvement and Improvement parcel and all interior portions thereof which, if not so maintained, may cause or tend to cause the exterior portion of such Improvement or Improvement parcel to deteriorate, decay or become damaged or otherwise fall into a state of disrepair. Every Owner, operator or agent of any property which has been designated a Landmark or is situated in a designated Landmark district shall further keep in good repair all portions of each Improvement and Improvement parcel which, if not so maintained, may cause or tend to cause such portions to deteriorate, decay, or become damaged or otherwise fall into a state of disrepair.
- B. The repair and maintenance required by this section includes, without limitation:
 - 1. Developing and implementing a maintenance and monitoring plan for protecting each Improvement and Improvement parcel.
 - 2. Structurally stabilizing each Improvement and Improvement parcel by taking all steps necessary to ensure:
 - a. The roof is watertight;
 - b. Gutters are properly pitched and cleared of debris;
 - c. Downspout joints are intact;
 - d. Drains are unobstructed;
 - e. Windows and door frames and wood siding are in good condition;
 - f. Masonry walls are properly tuck-pointed to keep out moisture;
 - g. The Improvement parcel is graded for proper water run-off;
 - h. Vegetation is cleared from around each Improvement; and
 - i. Trash, debris and hazardous materials such as inflammable liquids, poisons and paints are removed from the interior of each Improvement and from the Improvement parcel on a continuous basis.

3. Exterminating or controlling pests, including termites and rodents.
 4. Protecting each Improvement from moisture penetration.
 5. Securing each vacant Improvement and Improvement parcel from vandalism and break-ins including, without limitation:
 - a. First floor windows and doors must be secured as provided in Section 3103.09 of the Codified Ordinances of the City of Cleveland, Ohio, 1976;
 - b. Plywood must be painted black or if the structure is composed of brick, a color compatible with the color of the brick;
 - c. The method used to install the plywood may not result in the destruction of the opening covered and all sashes, doors and frames must be protected or stored for future use;
 - d. Battery-operated intrusion alarms must be installed on the first floor of each Improvement;
 - e. Battery-operated smoke alarms must be installed on all floors of each Improvement;
 - f. Adequate security lighting must be installed on each Improvement and adequate security lighting or fencing or both must also be installed on each Improvement parcel where deemed necessary by the Commissioner of Buildings and Housing.
 6. Providing adequate ventilation to the interior of each vacant Improvement.
 7. Securing or modifying utilities and mechanical systems for each vacant Improvement.
 8. Taking such other steps deemed necessary by the Commissioner of Building and Housing.
- C. Every Owner of any property which has been designated a Landmark or is situated in a designated Landmark district shall, when the Commissioner of Building and Housing deems it necessary to preserve the public peace, property, health or safety, furnish and file with such Commissioner a bond in the penal sum of fifteen thousand dollars (\$15,000.00) to be approved as to form by the Director of Law, guaranteeing full and faithful compliance by the Owner with the requirements of this section, binding the surety thereon to correct or abate such violation within a reasonable time limit set by such Commissioner.
- D. Every Owner of any property which has been designated a Landmark or is situated in a designated Landmark district shall designate in writing the name, current address and telephone number of a natural person residing within Cuyahoga County who is authorized by the Owner to act for the Owner and receive any notices under this section. Such natural person must be of sound mind and at least eighteen years of age. Every Owner shall notify the Commissioner of Building and Housing in writing of any change in the name, address and/or telephone number of the natural person designated in this section.
- E. The provisions of this chapter shall be in addition to all other applicable provisions of the Building Code of the City of Cleveland. Where provisions conflict, the provision imposing the stricter requirement shall control.
- F. It shall be the duty of the Division of Building and Housing to enforce this section. The Cleveland Landmarks Commission, on its own initiative, may notify the Division of Building and Housing and request that the Commissioner of Building and Housing proceed to take action against any Owner, operator or agent who, in the opinion of such Commissioner, is in violation of his section. (Ord. No. 1146-95. Passed 12-18-95, eff. 12-26-95)

161.99 Penalty

- A. Any person violating the provisions of this chapter by failing to perform any act required by this chapter or performing any act which is prohibited by this chapter shall be fined not less than ten dollars (\$10.00) nor more than five hundred dollars (\$500.00) for each offense. A separate offense shall be deemed committed each day during or on which an offense occurs or continues.
- B. Notwithstanding the provisions of subsection (a) hereof, in the event any environmental change is made in any property which has been designated a landmark or which is situated in a landmark district, in violation of the provisions of this chapter, the City may institute appropriate proceedings to prevent such unlawful environmental change. (Ord. No. 84-71. Passed 6-21-71, eff. 6-21-71)

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Sec. 161.051
Ord. No. 329-99

Ord. No. 329-99

By Councilmen Robinson, Zone and Johnson (by department request).

An emergency ordinance to supplement the Codified Ordinances of Cleveland, Ohio, 1976, by enacting new Section 161.051 thereof relating to certificate of appropriateness review fee.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department: now, therefore.

Be it ordained by the Council of the City of Cleveland:

Section 1: That the Codified Ordinances of Cleveland, Ohio, 1976, are hereby supplemented by enacting new Section 161.051 thereof to read as follows:

Section 161.051 Certificate of Appropriateness Review Fee

A. A review fee shall be paid to the Landmarks Commission when the Landmarks Commission's approval is required by the Codified Ordinances for issuance of a Building Permit, in accordance with the following schedule to cover the cost of review by the Landmarks Commission payable subsequent to the Landmarks Commission approval, upon issuance of a Certificate of Appropriateness.

B. The review fee shall be determined on the basis of the following schedule which "improvement cost" is that portion of a project's total improvement cost attributable to exterior improvements requiring review and approval by the Landmarks Commission:

Applicable Improvement Cost	Fee Rate
Less than \$5,000	1.5% of the amount over \$0
\$5,001 - \$10,000	\$75.00 + 1.0% of the amount over \$5,000
\$10,001 - \$100,000	\$125.00 + 0.5% of the amount over \$10,000
\$100,001 - \$500,000	\$575.00 + 0.2% of the amount over \$100,000
\$500,001 - \$5,000,000	\$1,375.00 + 0.05% of the amount over \$500,000
More than \$5,000,000	\$3,625.00 + 0.02% of the amount over \$5,000,000

C. Exemptions. No fee payments shall be required for the renovation or alteration of existing single-family, two-family and three-family residences or for construction or alteration of accessory structures on the property of such existing residence.

D. All fees generated pursuant to this section shall be deposited into the fund or funds which are designated for use by the Landmarks Commission and shall be used for Landmark Commission purposes.

Section 2. That this ordinance is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed June 7, 1999
Effective June 16, 1999

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Ord. No. 1486-01

By Councilman Cimperman

An emergency ordinance to amend Section 161.05 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 96-87, passed April 27, 1987, relating to procedures for alterations, demolitions, removals or constructions of designated landmarks properties in the City.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it ordained by the Council of the City of Cleveland:

Section 1. That Section 161.05 of the Codified Ordinances of Cleveland, Ohio, 1976, passed April 27, 1987, is hereby amended to read as follows:

Section 161.05 Regulation of Environmental Changes; Certificate of Appropriateness.

No person owning, renting or occupying property which has been designated a landmark or which is situated in a designated landmark district shall make any environmental change in such property unless a certificate of appropriateness has been previously issued by the Commission with respect to such environmental change. The following procedures shall apply to all alterations, demolitions, removals or constructions of such property in the City:

A. Any application to the Division of Building and Housing for a building permit for an environmental change shall also be deemed an application for a certificate of appropriateness, and shall be forwarded to the Commission, together with copies of all detailed plans, designs, elevations, specifications and documents relating thereto, within seven days after receipt thereof. An application for a certificate of appropriateness may be filed by the applicant directly with the Commission at the same time that an application for a building permit is filed in lieu of filing for a building permit, if no building permit is required for the proposed environmental change.

B. The Commission shall evaluate applications to determine whether or not the environmental change proposed by the applicant will adversely affect any significant historical or aesthetic feature of the property and to determine whether or not the environmental change proposed by the applicant is consistent with the spirit and purposes of this chapter.

1. In evaluating applications for alterations or construction of property, the Commission shall consider the following standards created by the U.S. Department of the Interior:
 - a. property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment;
 - b. the historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided;
 - c. each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken;
 - d. most properties change over time, those changes that have acquired historic significance in their own right shall be retained and preserved;
 - e. distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved;
 - f. deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence;
 - g. chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structure, if appropriate, shall be undertaken using the gentlest means possible;
 - h. significant archaeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken;
 - i. new additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment; and
 - j. new additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.
2. In evaluating applications for demolition or removal of property, the Commission shall consider the following standards:
 - a. the architectural and historic significance of the subject building or structure;

- b. the significance of the building or structure in contributing to the architectural or historic character of its environs;
- c. in the case of a request to move a building or other structure, the relationship between the location of the subject building or structure and its overall significance;
- d. the present and potential economic viability of the subject building or structure, given its physical condition and marketability;
- e. if the demolition will remedy conditions imminently dangerous to life, health, or property, as determined in writing by the Division of Building and Housing, the Division of Fire or the Department of Public Health; and
- f. the appropriateness of the proposed new structure or use and its impact on the surrounding community.

C. If the Commission finds that the environmental change proposed by the applicant will not adversely affect any significant historical or aesthetic feature of the property and is appropriate and consistent with the spirit and purposes of this chapter, or will remedy conditions imminently dangerous to life, health or property, as determined in writing by the Division of Building and Housing or the Division of Fire or the Department of Public Health, then the Commission shall issue a certificate of appropriateness.

D. If the Commission finds that the environmental change proposed by the applicant will adversely affect any significant historical or aesthetic feature of the property or is inappropriate or inconsistent with the spirit and purposes of this chapter, the Commission may either deny the application or delay action on the application. Any decision to delay action on the application shall be by mutual agreement of the Commission and the applicant and shall be for a period not to exceed six (6) months. During the delay period, the Commission shall conduct further investigation with regard to the proposed environmental change, conduct negotiations with the applicant and any other party in an effort to find a means of preserving the improvement, including without limitation, inducing by contract or other consideration the creation of covenants restricting the use of the property, leasing and subleasing the property for the purposes of preservation and acquiring by eminent domain or contact or conveyance all or any part of or interest in the property.

E. At the end of the delay period, the Commission shall either approve or deny the application, or delay action. A decision to delay action, at the end of one delay period, shall be by mutual agreement of the Commission and the applicant and shall be for a period not to exceed six (6) months. The Commission shall only agree to a second and final delay period if the Commission determines that this additional time period may be useful in securing an alternative to the proposed environmental change. At the end of the second and final delay period, the Commission shall either approve or deny the application for a certificate of appropriateness.

F. Upon the issuance, denial or a delay in the issuance of a certificate of appropriateness, the Commission shall give written notices of the issuance, denial or delay in the issuance to the applicant and the Division of Building and Housing. The Commission shall provide written notice of the issuance of a certificate of appropriateness to the applicant and the Division of Building and Housing within forty-five (45) days of the receipt by the Commission of an application from either the applicant or the Division of Building and Housing.

G. If no action has been taken by the Commission on an application for a certificate of appropriateness to approve, deny or delay action within forty-five (45) days after such application has been received by the Commission, the certificate of appropriateness shall be deemed issued.

Section 2. That existing Section 161.05 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 96-87, passed April 27, 1987, is hereby repealed.

Section 3. That this ordinance is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed March 25, 2002
Effective March 28, 2002