

DISTRICT OF COLUMBIA MUNICIPAL REGULATIONS  
TITLE 10A HISTORIC PRESERVATION

**CHAPTER 1 GENERAL PROVISIONS**

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**100 APPLICABILITY AND AUTHORITY**

These regulations govern implementation of the historic preservation programs of the District of Columbia, including activities conducted pursuant to both District and Federal law.

These regulations may be cited as the “District of Columbia Historic Preservation Regulations.”

These regulations implement the historic preservation provisions of the following statutes:

- (a) The Historic Landmark and Historic District Protection Act of 1978 (D.C. Law 2-144, as amended; D.C. Official Code §6-1101 *et seq.*), also referred to as the “Historic Protection Act” or “the Act”;
- (b) The Old Georgetown Act of 1950 (D.C. Official Code § 6-1201 *et seq.*);
- (c) The Shipstead-Luce Act of 1930 (D.C. Official Code § 6-611.01);
- (d) The National Historic Preservation Act of 1966, as amended (80 Stat. 915 *et seq.*; 16 U.S.C. 470 *et seq.*);
- (e) The Abatement and Condemnation of Nuisance Properties Omnibus Amendment Act of 2000 (D.C. Law 13-281; D.C. Official Code § 6-801 *et seq.* (2002 Supp.)); and
- (f) The Housing Act of 2002 (D.C. Law 14-114; D.C. Official Code § 6-802 *et seq.* (2002 Supp.)).

The regulations are coordinated and intended to be consistent with the following statutes and regulations:

- (a) The Administrative Procedure Act (D.C. Official Code § 2-501 *et seq.*);
- (b) The Advisory Neighborhood Commission Act, as amended (D.C. Official Code § 1-309), also referred to as the “ANC Act”;
- (c) The Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985 (D.C. Official Code § 2-1801 *et seq.*);
- (d) D.C. Zoning Regulations (DCMR Title 11); and
- (e) D.C. Construction Codes (DCMR Title 12).

If there is a conflict between these and other D.C. regulations, the more restrictive rule shall apply.

These rules are promulgated jointly by the Director, Office of Planning and the Historic Preservation Review Board.

Unless otherwise noted, the authority for this chapter is § 10 of the Historic Protection Act (D.C. Official Code § 6-1109), §§ 2 and 3 of Mayor’s Order 79-50, effective March 21, 1979, § 6 of Mayor's Order 83-119, effective May 6, 1983, 30 DCR 3031 (June 17, 1983), § III(B)(8) of the Reorganization Plan No. 1 of 1983 (effective March 31, 1983), and § 402(b) of the Fiscal Year 2001 Budget Support Act of 2000 (D.C. Law 13-172, effective October 19, 2000).

These rules apply to the activities of the Mayor’s Agent, State Historic Preservation Officer, Historic Preservation Review Board, and Historic Preservation Office after August 30, 2004. Applications and any other pending actions filed before the effective date of these regulations shall be considered under the rules in effect when the applications were filed.

## **101 INTENT AND PURPOSES**

The intent of these regulations is to promote the protection, enhancement, and perpetuation of properties of historical, cultural, and aesthetic merit in the interests of the health, prosperity, and welfare of the people of the District of Columbia.

The intent of the regulations is further to promote the following expressed purposes of the Historic Protection Act:

- (a) Effect and accomplish the protection, enhancement, and perpetuation of historic landmarks and districts which represent distinctive elements of the city’s cultural, social, economic, political and architectural history;
- (b) Safeguard the city’s historic, aesthetic and cultural heritage, as embodied and reflected in such landmarks and districts;

- (c) Foster civic pride in the accomplishments of the past;
- (d) Protect and enhance the city's attraction to visitors and the support and stimulus to the economy thereby provided; and
- (e) Promote the use of landmarks and historic districts for the education, pleasure, and welfare of the people of the District of Columbia.

The Historic Protection Act promotes an equitable balance between the rights of property owners and the benefits of preservation conveyed to the general public.

## **102 HISTORIC PRESERVATION AGENCIES, OFFICIALS AND PARTICIPANTS**

District of Columbia historic preservation programs are implemented by the Mayor, State Historic Preservation Officer, and Historic Preservation Review Board. Other District and Federal agencies and officials also perform related or incidental historic preservation functions.

These agencies and officials work with the owners of historic property to achieve the purposes and benefits of historic preservation.

These agencies and officials also work with interested members of the public, as individuals or through Advisory Neighborhood Commissions and historic preservation organizations, to achieve the purposes and benefits of historic preservation.

The following terms specifically applicable to this chapter are defined in Chapter 99:

- (a) Mayor;
- (b) Mayor's Agent;
- (c) State Historic Preservation Officer;
- (d) Historic Preservation Review Board;
- (e) Historic Preservation Office;
- (f) Department of Consumer and Regulatory Affairs;
- (g) Commission of Fine Arts;
- (h) Old Georgetown Board;
- (i) Advisory Neighborhood Commission; and
- (j) Historic preservation organization.

### **103      FUNCTIONS OF THE MAYOR**

The Mayor may designate a Mayor's Agent to carry out any or all of the Mayor's responsibilities pursuant to the Historic Protection Act. This authority notwithstanding, some of the Mayor's functions are reserved to the Mayor by statute, or may be delegated to other agencies or officials, as appropriate.

The Mayor appoints a State Historic Preservation Officer to carry out the District of Columbia historic preservation programs established under the National Historic Preservation Act, and any other duties authorized under District or Federal law.

The Mayor may delegate the responsibility for giving notice of applications pursuant to the Act (D.C. Official Code §§ 6-1104 through 6-1108) to the Permit Processing Division of the Department of Consumer and Regulatory Affairs, or another appropriate agency.

The Mayor includes in the budget estimates of the District of Columbia such amounts as may be necessary for the revolving fund established pursuant to the Act.

The Mayor submits to the Council an annual report on implementation of the Act and on the financial condition and uses of the revolving fund.

### **104      FUNCTIONS OF THE MAYOR'S AGENT**

The Mayor's Agent reviews proposed work affecting historic properties, including demolition, alteration, subdivision, and new construction, in accordance with the applicable provisions of the Historic Protection Act (D.C. Official Code §§ 6-1104 through 6-1108).

- (a) This authority may also be exercised by the person designated as a hearing officer for the Mayor's Agent. Although the Mayor's official designee remains the nominal Mayor's Agent, this hearing officer is titled the Mayor's Agent by custom, and exercises the Mayor's authority to decide cases involving a public hearing under D.C. Official Code §§ 6-1104 through 6-1108.
- (b) The remainder of this authority is exercised by the Historic Preservation Office, acting as the administrative staff to the Mayor's Agent.

The Mayor's Agent refers applications for this proposed work to the Historic Preservation Review Board and Commission of Fine Arts, as appropriate, for advice pursuant to the Act.

- (a) This authority may be exercised by the Historic Preservation Office under the supervision of the Mayor's Agent.
- (b) The Mayor's Agent may provide direction to the Permit Processing Division of the Department of Consumer and Regulatory Affairs in the processing of these administrative referrals.

The Mayor's Agent considers this advice and makes preliminary and final findings on the issuance of permits, as provided in the Act.

- (a) This authority may be exercised by the Historic Preservation Office, acting under the supervision of the Mayor's Agent and in accordance with these regulations.
- (b) If there is a public hearing, this authority may be exercised directly by the Mayor's Agent (Hearing Officer).

The Mayor's Agent holds mandatory public hearings on applications involving demolition of historic landmarks or contributing building in historic districts, subdivision of historic landmarks, a claim of unreasonable economic hardship or special merit, or an applicant's request after a recommendation of denial from the Historic Preservation Review Board or Commission of Fine Arts. The Mayor's Agent also exercises sole discretion to hold optional public hearings on other applications pursuant to the Act.

- (a) This authority may be delegated to the Mayor's Agent (Hearing Officer).
- (b) The procedural rules for public hearings in Chapters 4, 30 and 32 refer to the functions of the Mayor's Agent (Hearing Officer) under this delegated authority.

The Mayor's Agent determines if historic landmarks or contributing buildings in historic districts are threatened by demolition by neglect, and pursues appropriate remedies pursuant to the Act.

- (a) This authority may be exercised by the Historic Preservation Office under the supervision of the Mayor's Agent.
- (b) The Historic Preservation Office may pursue enforcement remedies with the assistance of the Office of the Corporation Counsel, the Department of Consumer and Regulatory Affairs, or other agencies as appropriate.

The Mayor's Agent issues regulations to carry out the provisions of the Act. These regulations may be issued jointly with the State Historic Preservation Officer and Historic Preservation Review Board.

The Mayor's Agent may enter into agreements with DCRA to provide for primary or coordinated enforcement of the Historic Protection Act by the HPO staff.

## **105 FUNCTIONS OF THE STATE HISTORIC PRESERVATION OFFICER**

The State Historic Preservation Officer performs the functions and duties authorized or required by the National Historic Preservation Act and other Federal laws and regulations. These functions and duties include:

- (a) Implementing a comprehensive preservation planning process;

- (b) Directing and conducting the comprehensive survey of historic properties;
- (c) Identifying and nominating properties to the National Register;
- (d) Administering the Historic Preservation Fund (HPF) Grant-in-Aid program;
- (e) Advising and assisting Federal and District agencies in carrying out their historic preservation responsibilities;
- (f) Cooperating with Federal and District agencies to ensure that historic properties are taken into consideration at all levels of planning and development;
- (g) Reviewing applications for Federal preservation tax credits; and
- (h) Providing public information, education, training, and technical assistance related to historic preservation programs.

The State Historic Preservation Officer also performs any other functions and duties authorized or required by District of Columbia law and regulations. These functions and duties include:

- (a) Reviewing zoning and other administrative referrals from the Office of Zoning and other agencies;
- (b) Issuing certifications of eligibility for historic preservation tax credits and other administrative relief; and
- (c) Implementing other historic preservation programs on behalf of the Mayor.

The State Historic Preservation Officer may delegate any of these functions and authorities to the Deputy State Historic Preservation Officer or to the Historic Preservation Office to the extent allowable under these or other applicable federal regulations.

## **106 FUNCTIONS OF THE HISTORIC PRESERVATION REVIEW BOARD**

The Board designates and maintains a current inventory of historic landmarks and historic districts, and adopts related procedures (contained in Chapter 2).

The Board advises the Mayor on the compatibility with the purposes of the Historic Protection Act (D.C. Official Code § 6-1101) of proposed work affecting historic properties, under D.C. Official Code §§ 6-1104 through 6-1108.

The Board performs the functions and duties of a State Review Board as set forth in regulations issued pursuant to the National Historic Preservation Act, the Historic Protection Act, and other applicable legislation.

The Board acts upon referrals from the Foreign Missions Board of Zoning Adjustment relating to the new construction, demolition and alteration of foreign missions, chanceries, and international organizations located in historic districts or historic landmarks, pursuant to the Foreign Missions Act (22 U.S.C. § 4306).

The Board performs other functions and duties relating to the protection, preservation, enhancement and perpetuation of the historic, architectural, cultural and aesthetic heritage of the District of Columbia as the Mayor may from time to time assign.

The Board may delegate any of these functions or authorities to the Historic Preservation Office to the extent allowed by law and these regulations.

#### **107 FUNCTIONS OF THE HISTORIC PRESERVATION OFFICE**

The Historic Preservation Office serves as the professional staff to the Mayor's Agent, State Historic Preservation Officer, and Historic Preservation Review Board.

The HPO performs customary staff functions as well as any functions and duties specifically delegated to it by the Mayor's Agent, SHPO, or HPRB.

The Historic Preservation Office also performs any other functions assigned in its role as a component of the Office of Planning.

#### **108 FUNCTIONS OF THE COMMISSION OF FINE ARTS**

The Mayor receives recommendations from the Commission of Fine Arts on referrals for review of proposed demolition, alteration, or new construction pursuant to the Historic Protection Act (D.C. Official Code §§ 6-1104, 6-1105, 6-1107, or 6-1108).

When applicable, recommendations from the Commission may incorporate the advice of the Old Georgetown Board.

The Commission makes recommendations in accordance with the Shipstead-Luce Act, Old Georgetown Act, and any implementing regulations, procedures, or policies that it may adopt.

#### **109 FUNCTIONS OF THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS**

The Department of Consumer and Regulatory Affairs (DCRA) accepts and transmits applications to the Mayor's Agent and CFA for review pursuant to the Historic Protection Act (D.C. Official Code §§ 6-1104 through 6-1108), and issues permits and subdivisions upon approval by the Mayor's Agent.

DCRA enforces construction codes and other regulations governing work subject to review under the Historic Protection Act, and other health and safety laws and regulations affecting historic property. This function includes condemnation proceedings, civil

sanctions, adjudications, and other enforcement action.

## **110 PUBLIC PARTICIPATION**

The views of property owners and the general public are essential to informed decisionmaking in the historic preservation process established under the Act.

Advisory Neighborhood Commissions and historic preservation organizations play a crucial role in seeking recognition and protection of the cultural heritage of the District of Columbia, and in facilitating public involvement in the historic preservation process.

Members of the public as individuals and organizations are encouraged to participate fully and to express their views in the historic preservation process, including as parties in contested case hearings held pursuant to these regulations.

The officially adopted written views of Advisory Neighborhood Commissions shall be accorded great weight in the historic preservation process as provided in the ANC Act.