

DISTRICT OF COLUMBIA MUNICIPAL REGULATIONS
TITLE 10A HISTORIC PRESERVATION

CHAPTER 2: DESIGNATION OF HISTORIC LANDMARKS AND DISTRICTS

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200 GENERAL PROVISIONS

The Review Board shall maintain the D.C. Inventory of Historic Sites, and shall designate historic landmarks and historic districts for inclusion in the Inventory.

The Act protects historic landmarks and historic districts differently during the designation process. The Act protects a proposed historic landmark temporarily when an application is officially filed, and permanently upon designation, but the Act does not protect properties within a proposed historic district until after the Board designates the district and the State Historic Preservation Officer nominates or issues a written determination to nominate the district to the National Register of Historic Places.

The Review Board and SHPO shall comment on Federal agency nominations to the National Register, and on National Historic Landmark designations made by the Secretary of the Interior (see additional procedures in Chapters 13 and 14).

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

- (a) D.C. Inventory of Historic Sites;
- (b) National Register of Historic Places;

- (c) Historic landmark;
- (d) Historic district; and
- (e) National Historic Landmark.

201 CRITERIA FOR DESIGNATION IN THE D.C. INVENTORY

Historic and prehistoric buildings, building interiors, structures, monuments, works of art or other similar objects, areas, places, sites, neighborhoods, and cultural landscapes are eligible for designation as historic landmarks or historic districts if they possess one or more of the following values or qualities:

- (a) *Events*: They are the site of events that contributed significantly to the heritage, culture or development of the District of Columbia or the nation;
- (b) *History*: They are associated with historical periods, social movements, groups, institutions, achievements, or patterns of growth and change that contributed significantly to the heritage, culture or development of the District of Columbia or the nation;
- (c) *Individuals*: They are associated with the lives of persons significant to the history of the District of Columbia or the nation;
- (d) *Architecture and Urbanism*: They embody the distinguishing characteristics of architectural styles, building types, or methods of construction, or are expressions of landscape architecture, engineering, or urban planning, siting, or design significant to the appearance and development of the District of Columbia or the nation;
- (e) *Artistry*: They possess high artistic or aesthetic values that contribute significantly to the heritage and appearance of the District of Columbia or the nation;
- (f) *Creative Masters*: They have been identified as notable works of craftsmen, artists, sculptors, architects, landscape architects, urban planners, engineers, builders, or developers whose works have influenced the evolution of their fields of endeavor, or are significant to the development of the District of Columbia or the nation; or
- (g) *Archaeology*: They have yielded or may be likely to yield information significant to an understanding of historic or prehistoric events, cultures, and standards of living, building, and design.

To qualify for designation, they shall also possess sufficient integrity to convey, represent or contain the values and qualities for which they are judged significant.

To qualify for designation, sufficient time shall have passed since they achieved significance or were constructed to permit professional evaluation of them in their historical context.

202 CRITERIA FOR LISTING IN THE NATIONAL REGISTER

Properties meeting the criteria for designation in the D.C. Inventory are also considered to meet the criteria for listing in the National Register of Historic Places unless the National Register officially determines otherwise.

The criteria for listing in the National Register (36 CFR § 60.4) are:

The quality of significance in American history, architecture, archaeology, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and:

- (a) that are associated with events that have made a significant contribution to the broad patterns of our history; or
- (b) that are associated with the lives of persons significant in our past; or
- (c) that embody the distinctive characteristics of a type, period, or method of construction or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- (d) that have yielded, or may be likely to yield, information important in prehistory or history.

Properties designated by the Secretary of the Interior as National Historic Landmarks are automatically listed in the National Register, and are considered to meet the criteria for listing in the D.C. Inventory.

203 ELIGIBLE APPLICANTS

Application for designation of a property as a historic landmark or historic district shall be made only by the owner of the property, the Board, a public agency, governmental unit or department, Advisory Neighborhood Commission, or a historic preservation organization.

The staff may request a copy of an organization's bylaws or other establishment papers if needed to confirm its eligibility as an applicant.

A historic preservation organization established for membership or purposes within a specific neighborhood or area of the District of Columbia shall be an eligible applicant only with respect to properties within that neighborhood or area.

Any eligible applicant may co-sponsor a nomination with any other eligible applicant.

204 APPLICATION FOR DESIGNATION

A proposed designation for historic landmark or historic district status shall be initiated by the submission of an application to the Board in the format prescribed by the staff.

The application shall contain a signed official application form and two complete sets of the following minimum information, preferably submitted with an electronic copy;

- (a) The name, address, and telephone number of the applicant;
- (b) The name and street address of the property proposed for designation, or the name and location if there is no street address;
- (c) If a historic landmark application, the name and address of the property owner;
- (d) The official square and lot or parcel number(s) of the property, or if a historic district application, a list of the squares within the proposed boundaries, indicating specific lots, parcels or public reservations where necessary;
- (e) A statement of the prehistoric, historic, architectural and/or cultural significance of the property;
- (f) A narrative statement of the history and historical development of the property and its relevant historic context;
- (g) If a historic landmark application, a description of the present appearance of the property, and where possible its original appearance if different;
- (h) If a historic district application, a description of the general character of the district and the types of buildings it contains, indicating the degree to which characteristic features have been maintained;
- (i) If a historic district application, a statement of the district's period of significance (including a separate period of significance for archaeological sites, if appropriate), a list of buildings and structures considered contributing to the significance of the district, and a list of those considered non-contributing;
- (j) If an application proposed for archaeological significance, a description of the existing condition of the property, indicating what is known about the type and condition of the archaeological deposits;
- (k) A list of bibliographic and other sources used to prepare the application, indicating the repository of any sources not readily available;

- (l) A clear and accurate map showing the exact boundaries of the property proposed for designation, and if a historic district application, a narrative description of the proposed boundaries of the district; and
- (m) Contemporary, good quality black and white photographs of the property (preferably 8 by 10 inches in size), sufficient to provide a clear and accurate visual representation of the property and its setting, and if a historic district application, showing buildings, streetscapes, and other views representative of the district.

The application shall contain sufficient information to consider nomination of the property to the National Register, and the application shall be considered a draft National Register nomination even if not submitted on a National Register nomination form.

A fully completed National Register nomination form shall constitute an acceptable application provided that it includes the minimum information required for filing and is accompanied by any other application form required by the staff.

205 FILING FEES

The Board shall adopt a schedule of fees for the filing of historic landmark and historic district applications, as set forth in Chapter 33. The Board may amend the fee schedule in accordance with applicable laws and regulations.

The applicant shall pay the filing fee before the assignment of a case number. The filing fee is non-refundable.

Federal and District government agencies, including ANCs, are not required to pay a filing fee.

206 MULTIPLE PROPERTY DESIGNATIONS

The Board may consider multiple or discontinuous properties for designation as historic landmarks or historic districts. Multiple property designations shall be for properties that are historically, physically, thematically, or otherwise related.

The staff may determine whether a proposed designation of multiple or discontinuous properties should be filed as a historic landmark or historic district application, or as multiple applications, as appropriate.

The Board may also consider and adopt National Register multiple property registration forms as a framework for the designation of related properties.

- (a) The staff shall assign a case number to a multiple property registration form, and shall process the application in the same manner as other designation applications.

- (b) There is no filing fee for the multiple property registration form itself, but the fee is required for each historic landmark or historic district application filed with the multiple property form.
- (c) If adopted, a multiple property registration form does not by itself constitute the designation of any historic landmark or district. It serves as the Board's acceptance of relevant documentation about a type or group of potential historic properties, and as the Board's endorsement of a basis and methodology for making determinations on the designation of these properties.

207 DESIGNATION INITIATED BY THE BOARD

The Board may initiate a historic landmark or historic district designation by directing the staff to prepare an application, or by adopting an existing National Register nomination, National Historic Landmark nomination, or designation application.

The Board shall file, give notice, and act upon a Board-initiated application according to the procedures required for any other application, except that the filing fee shall be waived.

208 OFFICIAL FILING OF AN APPLICATION

Within ten (10) days of receipt of an application, the staff shall determine whether it is complete. If the application is complete, and the applicant has paid the applicable filing fee, the staff shall assign a case number, date stamp, and officially file the application.

When the staff has completed the official filing, the application is considered a pending application, and if the property is a proposed historic landmark, it is protected by the Act.

The staff may correct errors on an application form at any time during the filing process or before the designation hearing, and shall make a notation of any corrections on the form.

209 NOTICE AND SCHEDULING OF A FILED APPLICATION

Immediately after an application is officially filed, the staff shall provide written notification to the Permit Processing Division of DCRA.

Within ten (10) days of an official filing, the staff shall mail notice of the filed application to the applicant, the owner, the affected Advisory Neighborhood Commission, and the ANC single member district commissioner(s) for the area within which the property is located, using the address maintained by the Office of Advisory Neighborhood Commissions. If the application is for a historic landmark, the staff shall include a copy of the application with the notice to the owner, unless the owner is the applicant. If the application is for a historic district, the staff shall mail notice to each owner unless there are more than 50 owners, in which case the staff may place notice of the filed application in the *D.C. Register* instead of giving notice to each owner.

Within sixty (60) days of an official filing, the staff shall mail notice of the filed application to the public mailing list described in Chapter 32.

Within ninety (90) days of an official filing, the staff shall schedule a hearing on the application by placing a scheduling or hearing notice in the *D.C. Register*.

If a historic landmark application is filed when a permit application subject to review under the Act is pending at DCRA, the ninety (90) day period for a determination on the designation shall be counted from the date the historic landmark application is filed.

Within five (5) days of receipt of a notice of a filed historic landmark application, the owner of the property shall notify the staff if there is a permit application for the property pending at DCRA.

210 AMENDMENT OR WITHDRAWAL OF A FILED APPLICATION

An applicant may submit a written amendment of a filed application at any time before notice of the public hearing.

An applicant may submit a written request to withdraw a filed application at any time. The filing fee is not refundable and the staff shall not return the application materials upon withdrawal.

Before the staff accepts a withdrawal, the Chairperson of the Board may adopt the application by substituting the Board as the applicant for designation.

Within ten (10) days of accepting an amendment or withdrawal, the staff shall provide notice of the amendment or withdrawal in the same manner as provided for a newly filed application in § 207.2. If an amendment is to change the boundaries of a proposed historic district, the staff is not required to send notice of the amendment to owners of property outside the area of the amendment.

If an application is withdrawn, the staff shall not accept another application to designate the same historic landmark or historic district until twelve (12) months after the date of withdrawal. The staff shall determine whether a new application is the same as a withdrawn application.

Upon receipt of any subsequent request to withdraw the refiled application, the Board shall adopt the application by substituting itself as the applicant, and shall proceed to a hearing as provided in this chapter.

211 NOTICE OF HISTORIC LANDMARK DESIGNATION HEARING

At least forty-five (45) but not more than seventy-five (75) days before a designation hearing, the Board shall send notice via first class mail to the owner of the property, the applicant for designation, and the affected Advisory Neighborhood Commission.

At least thirty (30) but not more than seventy-five (75) days before a designation hearing, the Board shall publish notice in the *D.C. Register*.

The notice shall state the date, time, place, and nature of the hearing, the name of the applicant, and an accurate description of the property proposed for designation.

The notice shall also indicate the Board's intent to consider the nomination of the property to the National Register, and shall solicit the submission of written comments on the property's significance before the hearing date. The format and content of the notice shall be approved by the National Register.

212 NOTICE OF HISTORIC DISTRICT DESIGNATION HEARING

For a proposed designation of a historic district where there are 50 or fewer property owners, the Board shall provide the same notice as for a historic landmark designation hearing. The Board shall obtain the list of owners from current District of Columbia land records or tax records.

For a proposed designation of a historic district where there are more than 50 property owners, the Board shall provide the same notice as for a historic landmark designation hearing, except that instead of notice to each property owner, the Board may require the applicant to publish notice in a local newspaper of general circulation in the area of the proposed designation. The applicant shall publish this notice at least thirty (30) but not more than seventy-five (75) days before the designation hearing.

If the Board has required the applicant to publish newspaper notice of a proposed historic district designation hearing, the applicant shall also post notice in the proposed historic district at least fifteen (15) days in advance of the hearing, as follows:

- (a) A notice shall be posted in a conspicuous location on each side of each block of the proposed historic district. Each notice shall be in plain view of the public.
- (b) Notices shall be posted on placards supplied by the Board, and shall show the number of the application, the nature of the application, the name of the applicant, the name of the proposed historic district, the affected ANC, and the location, time, and date of the public hearing.

Not less than five (5) days before the public hearing, the applicant shall file with the Board a sworn affidavit demonstrating compliance with this posting requirement. A form of affidavit supplied by the Board may be used but is not required.

The applicant shall attach to the affidavit a photograph of each sign after posting and as viewed by the public, identifying the location of each sign and the date of each photograph.

The applicant shall make a reasonable effort to maintain the posted notice by checking the signs periodically, and by posting new notices as necessary.

213 PUBLIC COMMENT PERIOD

During the time between public notice and the designation hearing, the Board shall accept written comments from affected property owners and any other interested persons concurring in or objecting to the designation and National Register nomination.

During the public comment period, the staff shall keep the application and National Register nomination on file and open for public inspection at the Historic Preservation Office. The staff shall mail or email a copy of the application to any person upon request, unless the length of the application makes this impractical.

214 PRE-HEARING SUBMISSIONS

Each applicant for designation shall file with the Board, at least ten (10) days before the hearing, a list of persons who will speak on the applicant's behalf.

Each owner of property proposed for historic landmark designation (if not the applicant), shall file with the Board at least seven (7) days before the hearing a list of persons who will speak on the owner's behalf

215 REQUESTS FOR POSTPONEMENT

The applicant for a proposed historic landmark or historic district designation may request postponement of the hearing by submitting a written request to the Board at least 48 hours before a scheduled hearing. The owner of a proposed historic landmark may request postponement of the designation hearing in the same manner.

Any request for postponement shall indicate which scheduled Board meeting is requested for a hearing date. Any request for postponement shall be accompanied by the owner's written agreement not to object to the timeliness of the Board's action due to this postponement.

The Chairperson of the Board may accept or deny a request for postponement as deemed appropriate. If there is a postponement, the Board may provide a new hearing notice as provided in this chapter, or may give notice of the postponement at the time and place originally scheduled for the hearing, in which case no further notice of the postponement is required.

216 STAFF REPORT ON DESIGNATION APPLICATION

Before the designation hearing, the staff shall prepare a written report and recommendation on the designation application.

The report shall include the staff's determination with respect to the criteria for designation in the D.C. Inventory (§ 201) and the criteria for listing in the National Register (§ 202).

At least five (5) days before the hearing date, the staff shall file copies of the staff report with the Board, and shall make it available to the applicant, owner, and public.

217 DESIGNATION HEARING

The Board shall hold a public hearing to receive information and public comments on each application for historic landmark or historic district designation.

At the designation hearing, the Board shall consider the eligibility of the property for listing in both the D.C. Inventory and the National Register.

The designation hearing shall be conducted in accordance with the Board's procedures in Chapter 31.

218 CLOSURE OF THE HEARING RECORD AND DELIBERATIONS

The record shall be closed at the end of the public hearing except when directed by the Chairperson to stay open for a specified period of time for the receipt of additional information or public comment. If the hearing is to be continued, the Chairperson shall announce the time and place it will be resumed, and no additional public notice shall be required.

The Board may reopen the record at any time before the issuance of a final decision. The Board shall provide notice of a reopening in the same manner as for the initial hearing.

After closure of the hearing record, the Board shall consider the application and shall hold its deliberations immediately or in a continuation of the public hearing. The Board shall give great weight to any written recommendations of the affected ANC that are adopted as required by the ANC Act and that are germane to the issues that fall within the Board's authority.

The Board may vote to designate the property, deny or defer the designation, or designate the property with reduced boundaries. If the Board wishes to expand the boundaries of a designation, a new notice and hearing is required. The Board may base its designation on any of its criteria, including designation criteria that may not be referred to in the application.

219 POST-HEARING PROCEDURES

The Board shall issue a written decision with respect to the proposed historic landmark or historic district designation. Each designation decision shall identify the property, describe its general characteristics and significance, specify its boundaries, state the

reasons for designation, and indicate whether it is also recommended for nomination to the National Register.

Each designation of a historic district shall state a period of significance for the historic district pursuant to National Register criteria. Subsequent to each designation of a historic district, the SHPO shall prepare an official list of contributing and non-contributing buildings pursuant to National Register criteria, and shall forward that list with the nomination to the National Register.

In any case in which the affected ANC has submitted a duly adopted written recommendation, the designation decision shall be accompanied by a written statement acknowledging the ANC recommendation and indicating the Board's response.

Within ten (10) days of a designation, the Board shall mail a copy of the official designation order signed by the Chairperson as follows:

- (a) For a historic landmark, to the applicant, property owner, and affected ANC;
- (b) For a historic district, to the applicant and affected ANC.

Within ninety (90) days of a designation, the Board shall publish notice of the designation in the *D.C. Register*.

If the Board has recommended the nomination of a property to the National Register, the SHPO shall prepare and forward the nomination to the National Register in accordance with the procedures in Chapter 13.

220 EFFECTIVE DATE OF DESIGNATION

The Board's determination whether to list a property as a historic landmark, as provided in D.C. Official Code § 6-1102(6)(B), is made when the Board votes to designate or deny designation of the property. This date is the official designation date. A historic landmark designation is final when the copy of the official designation order is mailed to the property owner. For the purposes of D.C. Official Code § 6-1102(6)(B), the application for designation is considered pending until the designation is final.

A historic district designation shall become effective thirty (30) days after the SHPO publishes in the *D.C. Register* a notice of nomination or determination to nominate the property to the National Register.

221 AMENDMENT OR REVOCATION OF DESIGNATION

Listings in the D.C. Inventory may be amended or revoked.

Any applicant eligible to file a designation application may apply to amend or revoke a designation.

An application to amend a designation shall include the same information required for a new designation, except that description of the property and statement of significance may address only the features and characteristics that are the subject of the amendment.

The procedures for amendment of a designation are the same as the procedures for designation, except that the Board may amend a historic district designation to augment or amend documentation, specify a period of significance, or identify contributing and non-contributing buildings without publishing notice in a newspaper of general circulation or posting notice in the historic district. When an application proposes to amend the boundaries of a historic district, the requirement for notice to owners and affected ANCs applies only to those properties within the area of amended boundaries.

An application to revoke a designation shall include the same information required for a new designation, except that the application shall state the reasons that the property does not possess significance or meet the criteria for designation.

Properties may be removed from the D.C. Inventory only if they no longer meet the criteria for designation. The procedures for removal of a property from the Inventory are the same as the procedures for designation.