

**SEC. 102-1. DEFINITIONS**

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

**Alteration:** Any change to a resource because of construction, repair, maintenance, or other means. Alterations shall include, but not be limited to, repointing of brickwork, sandblasting, and the removal of paint by chemical or other means.

**Applicant:** The owner of record of a resource; the lessee thereof with the approval of the owner of record in notarized form; or a person holding a "bona fide" contract to purchase a resource.

**Appurtenance:** A feature related to a parcel of land or to a building, structure, object, site, or a related group thereof. The term includes, but is not limited to, buildings, structures, objects, sites, landscaping features, walls, fences, light fixtures, steps, paving, sidewalks, shutters, awnings, solar panels, satellite dishes, and signs.

**Building:** A structure created to shelter any form of human activity, such as a house, garage, barn, church, hotel, or similar structure.

**Certificate of Appropriateness:** A signed and dated document evidencing the approval of the commission for work proposed by an applicant. The commission may, in appropriate situations, limit the period for which a Certificate of Appropriateness is valid.

**Certified Local Government (CLG):** A federal program authorized by the National Historic Preservation Act, 16 USC 470 et seq., that provides for the participation of local governments in a federal/state/local government preservation partnership. The federal law directs the State Historic Preservation Officer of Mississippi and the Secretary of the Interior to certify local governments to participate in this partnership. Specific Mississippi requirements for the program are published in "State of Mississippi, Guidelines and Regulations for the Certified Local Government Program," available from the Mississippi State Historic Preservation Officer.

**City:** The City of Natchez as represented by the Mayor and Board of Aldermen.

**Commission:** The Natchez Preservation Commission, a local historic preservation commission created pursuant to MCA 1972 § 39-13-5 as amended, and its predecessors.

**Construction:** The addition or placement of any improvement onto a resource.

**Demolition:** The complete or partial removal of buildings, structures, objects, or sites, including appurtenances.

**Demolition by Neglect:** Improper maintenance or lack of maintenance of any resource which results in substantial deterioration of the resource and threatens its continued preservation.

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**Exterior Features:** Exterior features of resources shall include, but not be limited to, the color, kind, and texture of building materials and the type and style of all windows, doors, and appurtenances.

**Improvement:** An appurtenance developed by human design, including, but not limited to, buildings, structures, objects, landscape features, and manufactured units, like mobile homes, boats, docks, carports, and storage buildings.

**Landmark:** A building, structure, or object, and its appurtenances and historically associated land or water, designated by the commission and approved by the city through an ordinance, which possess particular architectural, cultural, or historic significance by meeting at least one of the following criteria:

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

**Landmark Site:** An unimproved or improved parcel of ground designated by the commission and approved by the city through an ordinance, which possesses particular archaeological, architectural, geological, or historic significance. A landmark site differs from a landmark in that the physical location and configuration, not the building, structure, or object, possesses primary significance. For the purposes of this ordinance, a landmark site encompasses prehistoric or historic sites on unimproved or improved land. Landmark sites meet at least one of the following criteria:

- (1) Exemplifies or reflects the broad cultural, political, economic, or social history of the nation, region, state, county, or city; or
  - (2) Is identified with historic personages or with important events in national, regional, state, or local history; or
  - (3) Embodies distinguishing characteristics of a landscape type or is a specimen inherently valuable for the study of a period, style, method of construction, or use of indigenous materials or craftsmanship; or
  - (4) Has yielded, or may be likely to yield, information important in prehistory or history. A "Landmark Site" may be a culturally significant natural feature other than landscape.
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**Landscape Feature:** Any improvement, natural formation, or vegetation including, but not limited to: shrubbery, trees, plantings, outbuildings, walls, courtyards, fences, swimming pools, planters, gates, street furniture, exterior lighting, and site improvements, including but not limited to, subsurface alterations, site regarding, fill deposition, and paving.

**National Historic Landmark:** A district, site, building, structure, and/or object that has been formally designated as a National Historic Landmark by the Secretary of the Interior and possesses exceptional value or quality in illustrating or interpreting the heritage of the United States in history, architecture, archaeology, engineering, and culture and that possesses a high degree of integrity of location, design, setting, materials, workmanship, feeling, and association. National Historic Landmarks are automatically listed in the National Register.

**National Register of Historic Places:** A federal list of cultural resources worthy of preservation, authorized under the National Historic Preservation Act of 1966 as part of a national program to coordinate and support public and private efforts to identify, evaluate, and protect the nation's historic and archaeological resources. The National Register Program is administered by the commission, by the State Historic Preservation Office, and by the National Park Service under the Department of the Interior. Significant federal benefits may accrue to owners of properties listed or determined eligible for listing in the National Register.

**Object:** A material thing of functional, cultural, historical, or scientific value that may be, by nature or design, movable, yet related to a specific setting or environment.

**Ordinary Repairs or Maintenance:** Work done to prevent deterioration of a resource or any part thereof by returning the resource as nearly as practical to its condition prior to such deterioration, decay, or damage and by reusing, where possible, original materials.

**Owner of Record:** The owner of a parcel of land, improved or unimproved, reflected on the city tax roll and in county deed records.

**Preservation District:** A district designated by the commission and approved by the city through an ordinance, which contains a geographically definable area, urban or rural, possessing a significant concentration of sites, buildings, structures, or objects associated by past events or by plan or physical development, and which meets at least one of the following criteria:

- (1) Exemplifies or reflects the broad cultural, political, economic, or social history of the nation, state, county, or city; or
  - (2) Is identified with historic personages or with important events in national, state, or local history; or
  - (3) Embodies distinguishing characteristics of architectural types or contains examples inherently valuable for the study of periods, styles, methods of construction, or uses of indigenous materials or craftsmanship; or
  - (4) Is representative of the notable work of master builders, designers, or architects whose individual abilities have been recognized or who influenced their eras.
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**Relocation:** Any changes in the location of a building, object, or structure in its present setting or to another setting.

**Resource:** A landmark, landmark site, and all land or water within a preservation district, together with the appurtenances and improvements, if any. The term resource includes, but is not limited to, separate districts, buildings, structures, sites, objects, landscape features, and related groups thereof.

**Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings:** A federal document stating standards and guidelines for the appropriate rehabilitation and preservation of historic buildings.

**Site:** The location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself maintains historical or archaeological value regardless of the value of any existing buildings, structures, or objects.

**State Historic Preservation Office:** The Historic Preservation Division of the Mississippi Department of Archives and History.

**State Historic Preservation Officer:** The director of the Mississippi Department of Archives and History.

**Structure:** A work made up of interdependent and interrelated parts in a definite pattern of organization constructed by man. The term includes, but is not limited to engineering projects, earthworks, boats, barges, and bridges.

**Unreasonable Economic Hardship:** The inability of an owner to obtain a reasonable return or a reasonable beneficial use from a resource as required by the United States Supreme Court in Penn Central Transportation Company vs. New York City, 438 U. S. 104 (1978), and subsequent decisions.

(Code 1969, § 23-52; Ord. No. 1995-2, § 1, 1-10-95)

Cross reference(s) – Definitions generally, § 1-2.

## **SEC. 102-2. STATEMENT OF PURPOSE OF CHAPTER**

- (a) The city hereby recognizes that the City of Natchez is internationally known for its extensive and concentrated collection of Southern mansion estates, its riverfront setting, as well as its extraordinary urban grouping of historic public, commercial, and residential buildings. Natchez's unique qualities have proven increasingly attractive to residents, business interests, and tourists.
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- (b) As a matter of public policy the city aims to preserve, enhance, and perpetuate those aspects of the city and the immediately adjacent Mississippi River that have historical, cultural, architectural, and/or archaeological merit. Such preservation activities will promote and protect the health, safety, prosperity, education, and general welfare of the people living in and visiting Natchez.
  
- (c) More specifically, this historic preservation ordinance is designed to achieve the following goals:
  - (1) Protect, enhance and perpetuate resources which represent distinctive and significant elements of the city's historical, cultural, social, economic, political, archaeological, and architectural identity;
  - (2) Insure the harmonious, orderly, and efficient growth and development of the city;
  - (3) Strengthen civic pride and cultural stability through neighborhood conservation;
  - (4) Stabilize the economy of the city through the continued use, preservation, and revitalization of its resources;
  - (5) Protect and enhance the city's attractions to tourists and visitors and the support and stimulus to business and industry thereby provided;
  - (6) Promote the use of resources for the education, pleasure, and welfare of the people of the city of Natchez;
  - (7) Provide a review process for the continued preservation and appropriate development of the city's resources.

(Code 1969, § 23-51)

**SEC. 102-3. ENFORCEMENT AND PENALTIES**

The following civil and criminal penalties may be imposed upon those persons, firms, or corporations found to have violated requirements or prohibitions contained within this chapter:

- (1) *Civil Penalty:*
    - a. Any person who constructs, alters, relocates, or demolishes any resource in violation of this ordinance or who causes any resource to be constructed, altered, relocated, or demolished in violation of this ordinance shall be required to restore the resource to its appearance or setting prior to the violation. Any action to enforce this provision shall be brought by the City of Natchez. This civil remedy shall be in addition to, and not in lieu of, any criminal prosecution and penalty.
    - b. If demolition of a resource occurs without a Certificate of Appropriateness, then any permits on subject property, with the exception of a permit to restore the resource as set forth above, will be denied for a period of three (3) years. In addition, the
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applicant shall not be entitled to have issued to him by any city office a permit allowing any curb cuts on subject property for a period of three (3) years from and after the date of such demolition.

(2) *Criminal Penalty:*

Any person or legal entity who constructs, alters, relocates, or demolishes any resource in violation of this chapter or who causes any resource to be constructed, altered, relocated, or demolished in violation of this chapter shall be guilty of a misdemeanor, and may be deemed guilty of a separate violation for each day during which any violation hereof is committed. Upon conviction, each violation shall be punishable by a fine not to exceed one thousand dollars (\$1,000.00).

(Code 1969, § 23-65; Ord. No. 1995-2, § 5, 1-10-95)

#### **SEC.102-4. DESIGNATION OF LANDMARKS, LANDMARK SITES, AND HISTORIC DISTRICTS**

By ordinance, the city may establish landmarks, landmark sites, and preservation districts within the area of its jurisdiction. Such landmarks, landmark sites, or preservation districts shall be designated according to the following:

- (1) The commission shall initiate a continuing and thorough investigation of the archaeological, architectural, cultural, and historic significance of the city's resources. The findings shall be collected in a cohesive format, made a matter of public record, and made available for public inspection. The commission shall work toward providing complete documentation for previously designated preservation districts which would include:
    - a. An inventory of all property within the boundary of the district, with photographs of all sides of each building and an evaluation of its significance to the district. Building evaluations are to be used only as a reference or guide and shall not be used as the determining factor for issuing or denying a certificate of appropriateness.
    - b. An inventory which would be in a format consistent with the statewide inventory format of the Historic Preservation Division of the state department of archives and history (SHPO).
  - (2) The commission shall advise the city on the designation of preservation districts, landmarks, or landmark sites and submit or cause to be prepared ordinances to make such designation.
  - (3) A resource or resources may be nominated for designation upon motion of three members of the commission or by an organization interested in historic preservation or by any owner of the property being nominated. A nomination shall contain information as specified by the commission. The commission must reach a decision on whether to recommend a proposed nomination to the city within six (6) months in the case of a preservation district and two (2) months in the case of either a landmark or landmark site.
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- (4) If the commission votes to recommend to the city the designation of a proposed resource, it shall promptly forward to the city its recommendation, in writing, together with an accompanying file.
  - (5) The commission's recommendation to the city for designation of a preservation district shall be accompanied by:
    - a. A map of the preservation district that clearly delineates the boundaries;
    - b. A verbal boundary description and justification;
    - c. A written statement of significance for the proposed preservation district; and
    - d. Approval of site plans by the city engineer.
  - (6) After the nomination of a resource to the commission for possible local designations, the resource shall be fully protected by the provisions of this ordinance for a period of six (6) months, as if it were already designated.
  - (7) With the adoption of this chapter, any property designated under a previous city ordinance shall remain designated.
  - (8) After June 11, 1991, no preservation district or districts shall be designated until the state department of archives and history, acting through such agent or employee as may be designated by its director, shall have made an analysis of, and recommendations concerning, the proposed district boundaries. Failure of the department to submit its analysis and recommendations to the city within sixty (60) days after a written request for such analysis has been mailed to it shall constitute approval. The city may at any time thereafter take any necessary action to adopt or amend its ordinance.
  - (9) After June 11, 1991, no preservation district or shall be designated until the National Park Service, Department of the Interior, acting through such agent or employee as may be designated by its director, shall have made an analysis of, and recommendations concerning, the proposed district boundaries. Failure of the National Park Service to submit its analysis and recommendations to the city within sixty (60) days after a written request for such analysis has been mailed to it shall constitute approval. The city may at any time thereafter take any necessary action to adopt or amend its ordinance.
  - (10) If a proposed ordinance is to designate a landmark or landmark site, it may be presented to the city with a recommendation that it be adopted without submission to the state department of archives and history or the National Park Service, Department of the Interior.
  - (11) The city shall conduct a public hearing to discuss the proposed designation and boundaries thereof. A notice of the hearing shall be advertised and published once a week for two consecutive weeks in a regular newspaper published in the county. The first publication shall be made not less than twenty one (21) days prior to the date fixed for the public hearing, and the last publication shall be made not more than seven (7) days prior to such date.
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- (12) Within sixty (60) calendar days after the public hearing held in connection herewith, the city shall adopt the ordinance as proposed, reject it entirely, or adopt the ordinance with modifications. Failure to act shall constitute rejection.
- (13) Furthermore, the commission shall notify, as soon as is reasonably possible, the appropriate state, county, and municipal agencies of the official designation of all landmarks, landmark sites, and preservation districts. An updated list and map shall be maintained by such agencies and made available to the public.
- (14) Previously designated properties may have their designations removed only by following the procedures for designation as those set forth in this ordinance.
- (15) In reviewing proposals for new buildings or for alterations to existing buildings within three hundred (300) feet of the property line of a designated landmark building outside a historic district, the commission shall consider only those aspects of building and site design which directly affect the designated landmark building and its site. If either the staff or commission finds that a proposal for a new building or alteration of an existing building within three hundred (300) feet of a designated landmark building does not directly affect the landmark building, the commission shall relinquish its review authority over the proposal.

(Code 1969, § 23-56; Ord. No. 1994-1, § 1, 2-22-94; Ord. No. 1995-2, § 3, 1-10-95)

**SEC. 102-5. CERTIFICATES OF APPROPRIATENESS – REQUIRED; APPROVAL OR DENIAL BY COMMISSION; EXPIRATION; ISSUANCE GENERALLY.**

No exterior feature of any resource shall be altered, relocated, or demolished until after an application for a certificate of appropriateness of such work has been approved by the commission. Likewise, no construction which affects a resource shall be undertaken without a certificate of appropriateness. Therefore,

- (1) The commission shall serve as a review body with the power to approve and deny applications for certificates of appropriateness.
  - (2) In approving and denying applications for certificates of appropriateness, the commission shall seek to accomplish the purposes of this chapter.
  - (3) A certificate of appropriateness shall not be required for work deemed by the commission to be ordinary maintenance or repair of any resource.
  - (4) All decisions of the commission shall be in writing and shall state the findings of the commission, its recommendations, and the reasons therefore.
  - (5) A certificate of appropriateness shall, unless otherwise specified by the commission, expire twenty four (24) months after its issuance except that a certificate shall expire if work has not begun within six (6) months of its issuance. When a certificate has expired, an applicant may seek a new certificate.
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- (6) Twelve (12) months after denial of an application for a certificate of appropriateness, the application may be resubmitted without change. A changed application may be resubmitted at any time.
- (7) Certificates of appropriateness may be issued for distinct and separate phases of an ongoing project.

(Code 1969, § 23-57)

**SEC. 102-6. SAME– SPECIFIC CRITERIA FOR ISSUANCE**

The commission and the city shall use the following criteria in granting or denying certificates of appropriateness:

- (1) *General Factors:* General factors are as follows:
    - a. Architectural design of existing building, structure, or appurtenance and proposed alteration;
    - b. Historical significance of the resource;
    - c. General appearance of the resource;
    - d. Condition of the resource;
    - e. Materials composing the resource;
    - f. Size of the resource;
    - g. The relationship of the factors listed in this subsection to, and their effect upon the immediate surroundings and, if within a preservation district, upon the district as a whole and its architectural and historical character and integrity.
  - (2) *New construction:* Criteria for new construction shall be as follows:
    - a. In advance of new construction, steps shall be taken to insure evaluation of possible archaeological resources, as set forth in the Antiquities Law of Mississippi (MCA 1972, § 39-7-1 et seq.).
    - b. The following aspects of new construction shall be visually compatible with the buildings and environment with which the new construction is visually related, including but not limited to: the height, the gross volume, the proportion between width and height of the facade(s), the proportions and relationship between doors and windows, the rhythm of solids to voids created by openings in the facade, the materials, the textures, the colors, the patterns, the trims, and the design of the roof.
    - c. Existing rhythm created by existing building masses and spaces between them shall be preserved.
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- d. The landscape plan shall be compatible with the resource, and it shall be visually compatible with the environment with which it is visually related. Landscaping shall also not prove detrimental to the fabric of a resource, or adjacent public or private improvements like sidewalks and walls.
  - e. No specific architectural style shall be required.
- (3) *Exterior alteration:* Exterior alteration criteria shall be as follows:
- a. All exterior alterations to a building, structure, object, site, or landscape feature shall be compatible with the resource itself and other resources with which it is related, as is provided in subsections (1) and (2) of this section, and the original design of a building, structure, object, or landscape feature shall be considered in applying these standards.
  - b. Exterior alterations shall not affect the architectural character or historic quality of a landmark and shall not destroy the significance of landmark sites.
- (4.) *Demolition:* Criteria for demolition shall be as follows:
- a. The individual architectural, cultural, and/or historical significance of the resource.
  - b. The importance or contribution of the resource to the architectural character of the district and, where appropriate, the damaging impact of the resource on the architectural character of the district.
  - c. The importance or contribution of the resource to neighboring property values and, where appropriate, the damaging impact of the resource on neighboring property values.
  - d. The commission shall consider the difficulty or impossibility of reproducing such a resource because of its texture, design, material, or detail.
  - e. Following recommendation for approval of demolition, the applicant must seek approval of plans for the property, as set forth in Section VIII, B, prior to receiving a demolition permit and other permits. When such plans contemplate new construction, the applicant shall provide the commission with plans for this purpose, which shall include, but shall not be restricted to, project concept, preliminary elevations and site plans, and completed working drawings for at least the foundation plan which will enable the applicant to receive a permit for foundation construction.
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- f. Applicants that have received a recommendation for demolition shall be permitted to receive such demolition permit without additional commission action on demolition, following the commission's recommendation of a permit for new construction. Permits for demolition and construction shall be issued simultaneously if requirements of Section VIII, B, are met, and the applicant provides financial proof of his ability to complete the project.
- g. When the commission recommends approval of demolition of a resource, a permit shall not be issued until all plans for the site have received approval from all appropriate city boards, commissions, departments, and agencies.

(Code 1969, § 23-58)

#### **SEC. 102-7. SAME - PROCEDURES FOR ISSUANCE**

- (a) *Filing of application; notification of building official.* Whenever any application for a Certificate of Appropriateness is filed with the commission, the commission shall immediately notify the city building official that the application has been filed. Similarly, whenever the city building official becomes aware that an application has been filed for a permit affecting a property under the jurisdiction of the preservation commission, the city building official shall immediately notify the commission chairman or vice-chairman, if the chairman is unavailable, that such an application has been filed.
  - (b) *Authority of commission to determine completeness of application.* The commission shall have the authority to determine when a filed application is complete and contains all required information. An application deemed incomplete by the commission shall not be considered to have been filed for the purposes of this ordinance. The commission shall develop standard application forms and its written guidelines shall specify what information an applicant shall attach to each form.
  - (c) *Schedule of commission meetings.* The chairman or vice-chairman of the commission shall establish a regular schedule for the hearings of the commission. Two hearings shall be scheduled for each month.
  - (d) *Preliminary conference.* The applicant shall, upon request, have the right to a preliminary conference with a member of the commission or of the commission staff for the purpose of learning whether changes or adjustments to the application could make it more consistent with the commission's standards.
  - (e) *Notice from commission to applicant and commission members.* Not later than six (6) days before the date set for the public hearing on an application, the city building official shall mail notice thereof to the applicant at the address in the application and to all members of the commission and shall post notice thereof on each property that is subject to the application.
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- (f) *Notice of hearing to be published.* Notice of the time and place of a scheduled public hearing on an application shall be given by publication one (1) time in a newspaper having general circulation in the city at least four (4) days before such hearing and by posting such notice on the bulletin board in the lobby of city hall.
- (g) *Presentation of relevant information; rules of procedure.* At the scheduled public hearing, the applicant for a Certificate of Appropriateness shall have the right to present any relevant information pertaining to the application. Likewise, the city, the commission and its staff, and members of the public shall have the right to present any additional relevant information pertaining to the application. The commission shall adopt rules of procedure specifying in detail how a public hearing shall be conducted, and when comments and information from different sources shall be heard.
- (h) *Right of commission to recommend changes and modifications.* The commission, at either a preliminary conference or at a public hearing, shall have the right to recommend changes and modifications to enable the applicant to meet the requirements of the commission. If the commission chooses to do this at a preliminary conference after an application for a Certificate of Appropriateness has been filed, then the time during which the commission must render its decision, as set forth below in paragraphs I and J, shall be extended by thirty days in order to permit the applicant to prepare any new drawings or other submissions which prove necessary.
- (i) *Approval, denial or deferment; notice in writing.* Within not more than forty-five (45) days after the hearing on an application, the commission shall act upon it, approving, denying, or, only upon the request of the applicant, deferring action until the next meeting of the commission, giving consideration to the factors set forth in Section VIII hereof. Evidence of approval of the application shall be by Certificate of Appropriateness issued by the commission and, whatever its decision, notice in writing shall be given to the applicant and the city building official.
- (j) *Failure to reach decision constitutes approval; exception.* Failure by the commission to reach and render a decision within sixty (60) days of the date of filing of the application with the commission shall be taken to constitute approval of the application by the commission, unless an applicant has requested that the commission delay its decision beyond the sixty (60) day period otherwise required.
- (k) *Two-thirds majority required for national historic landmark status.* In all cases of applications affecting National Historic Landmarks, at least two-thirds of the members of the commission must approve a Certificate of Appropriateness in order for it to be granted.
- (l) *Issuance not to relieve applicant from other requirements.* The issuance of a Certificate of Appropriateness shall not relieve an applicant for a companion building permit, special use permit, variance, or other authorization from compliance with any other requirement or provision of the laws of the city concerning zoning, construction, repair, or demolition. In all such cases, applicants are encouraged to apply first for a Certificate of Appropriateness as other city agencies will be advised by the preservation commission in making their subsequent decisions.
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- (m) *Certificate required prior to issuance of building permit affecting resource.* No building permit which affects a resource shall be issued by the city official prior to the issuance of a Certificate of Appropriateness by the commission. Even if a building permit is not otherwise required by city ordinances for construction, alteration, demolition, or relocation of any resource, a Certificate of Appropriateness from the commission is required.

(Code 1969, § 23-59; Ord. No. 1996-3, § 1, 2-13-96)

#### **SEC. 102-8. UNREASONABLE ECONOMIC HARDSHIP**

- (a) When a claim of unreasonable economic hardship is made due to the effect of this chapter, the owner of record must present evidence sufficient to prove that as a result of the preservation commission's action he is unable to obtain a reasonable return or a reasonable beneficial use. The owner of record shall submit by affidavit to the commission for its review information which shall include, but not be limited to, the following:
- (1) Date the property was acquired by its current owner;
  - (2) Price paid for the property (if acquired by purchase) and the relationship (if any) between the buyer and the seller of the property;
  - (3) Mortgage history of the property, including current mortgage;
  - (4) Current market value of the property;
  - (5) Equity in the property;
  - (6) Past and current income and expense statements for a two-year period;
  - (7) Past capital expenditures during ownership of current owner;
  - (8) Appraisals of the property obtained within the previous two years; and
  - (9) Income and property tax factors affecting the property.
- (b) The preservation commission may require that an applicant furnish additional information relevant to its determination of unreasonable economic hardship.
- (c) The preservation commission may receive and consider studies and economic analyses from other city agencies and from private organizations relating to the property in question.
- (d) Should the commission determine that the owner's present return is not reasonable, it must consider whether there are other uses currently allowed that would provide a reasonable return and whether such a return could be obtained through investment in the property for rehabilitation purposes.
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- (e) Should the applicant satisfy the commission that he will suffer an unreasonable economic hardship if a certificate of appropriateness is not approved, such certificate must be approved.

(Code 1969, § 23-60)

**SEC. 102-9. APPEALS**

**APPEAL:** The applicant who desires to appeal a decision by the Natchez Preservation Commission shall file an appeal as provided hereinafter within fifteen (15) days after determination of the issue by the commission. Such appeal shall be taken by filing with the City Clerk a Notice of Appeal specifying the grounds thereof. The City Clerk shall obtain from the City Planner all papers constituting the record upon which the action appealed was taken, and shall forthwith transmit the same to the proper court as provided hereinafter. An appeal stays all proceedings in furtherance of the action appealed from.

**COURT:** All appeals shall be made directly to and heard by the Chancery Court of Adams County, Mississippi as provided in Miss. Code Ann. 1972 '39-13-19 (Rev. 2007).

**PROCEDURE FOR APPEAL:** The issue on appeal before the Chancery Court of Adams County shall be tried solely on the question whether the commission has acted beyond the limits of its powers or abused its discretion.

(Code 1969, § 23-61; Ord. 2012-1, §1, 8-14-12)

**SEC. 102-10. MINIMUM MAINTENANCE REQUIREMENTS**

In order to ensure the protective maintenance of resources, the exterior features of such properties shall be maintained to meet the requirements of the city's minimum housing code and the city's building code.

(Code 1969, § 23-62)

**SEC. 102-11. DEMOLITION BY NEGLIGENCE**

- (a) Any resource which is a landmark and all resources within a preservation district shall be preserved by the owner or such other person or persons as may have the legal custody or control thereof against decay and deterioration and free from unreasonable structural defects. The owner or other person having legal custody and control thereof shall repair such resource if it is found to have one or more of the following defects:
  - (1) Deterioration to the extent that it creates or permits a hazardous or unsafe condition as determined by the city's building inspector.
  - (2) Deterioration, as determined by the building inspector, of a building characterized by one or more of the following:

- a. Those buildings which have parts thereof which are so attached that they may fall and injure persons or property;
  - b. Deteriorated or inadequate foundations;
  - c. Defective or deteriorated floor supports or floor supports insufficient to carry imposed loads with safety;
  - d. Members of walls or other vertical supports that split, lean, list, or buckle due to defective material, workmanship, or deterioration;
  - e. Members of walls or other vertical supports that are insufficient to carry imposed loads with safety;
  - f. Members of ceilings, roofs, ceiling and roof supports, or other horizontal members which sag, split, or buckle due to defective material, workmanship, or deterioration;
  - g. Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that are insufficient to carry imposed loads with safety;
  - h. Fireplaces or chimneys which list, bulge, or settle due to defective material, workmanship, or deterioration; or
  - i. Any fault, defect, or condition in the building which renders the same structurally unsafe or not properly watertight.
- (b) If the commission makes a preliminary determination that a resource is being demolished or deteriorated by neglect, it shall direct the city building official to notify the owner or owners of the resource of this preliminary determination, stating the reasons therefore, and shall give the owner of record thirty (30) days from the date of mailing of such notice or the posting thereof on the property, whichever comes later, to commence work to correct the specific defects as determined by the commission. Such notice shall be given as follows:
- (1) By certified mail, restricted delivery, mailed to the last known address of the record owner or owners as listed on the city and/or county tax rolls; or
  - (2) If the above mailing procedure is not successful, notice shall be posted in a conspicuous, protected place on the resource.
- (c) If the owner or owners fail to commence work within the time allotted as evidenced by a building permit, the commission shall notify the owner or owners in the manner provided above to appear at a public hearing before the commission at a date, time, and place to be specified in said notice, which shall be mailed or posted at least thirty (30) days before said hearing. For the purpose of insuring lawful notice, a hearing may be continued to a new date and time. The commission shall receive evidence on the issue of whether the subject resource should be repaired and the owner or owners may present evidence in rebuttal thereto. If, after such hearing, the commission shall determine that the resource is being
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demolished by neglect, it may direct the city building official to bring misdemeanor charges against the owner or owners if the necessary repairs are not completed within ninety (90) days of the determination by the commission that the subject building or structure is being demolished by neglect.

(Code 1969, § 23-63; Ord. No. 1995-2, § 4, 1-10-95)

#### **SEC. 102-12. PUBLIC SAFETY EXCLUSION**

None of the provisions of this ordinance shall be construed to prevent any action of construction, alteration, or demolition necessary to correct or abate the unsafe or dangerous condition of any resource, or part thereof, where such condition has been declared unsafe or dangerous by the city building official or the fire department and where the proposed actions have been declared necessary by such authorities to correct the said condition; provided, however, that only such work as is necessary to correct the unsafe or dangerous condition may be performed pursuant to this section. In the event any resource designated as a landmark or located within a preservation district, shall be damaged by fire or other calamity to such an extent that it cannot be repaired and restored, it may be removed in conformity with normal permit procedures and applicable laws, provided that:

- (1) The city building official concurs with the property owner that the resource cannot be repaired and restored and so notifies the commission in writing.
- (2) The preservation commission, if in doubt after receiving such notification from the city building official, shall be allowed time to seek outside professional expertise from the State Historic Preservation Office and/or an independent structural engineer before issuing a Certificate of Appropriateness for the demolition. The commission may indicate in writing by letter to the city building official that it will require a time period of up to thirty days for this purpose, and, upon such notification to the city building official, this section shall be suspended until the expiration of such a delay period.

(Code 1969, § 23-64)

#### **SEC. 102-13. APPROPRIATIONS**

The city is authorized to make appropriations to the commission necessary for the expenses of the operation of the commission and may make additional amounts available as necessary for the acquisition, restoration, preservation, operation, and management of historic properties.

(Code 1969, § 23-66)

#### **SEC. 102-14. TITLE TO PROPERTY ACQUIRED**

All property acquired by funds appropriated by the city shall be acquired in the name of the city unless otherwise provided by the city.

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(Code 1969, § 23-67)

#### **SEC. 102-15. NON RESTRICTIVE CLAUSE**

- (a) Nothing in this ordinance shall be construed to prevent the regulation or acquisition of property, improved or unimproved, by the state or any of its political subdivisions, agencies, or instrumentalities or by the United States of America or any of its political subdivisions, agencies, or instrumentalities.
- (b) Furthermore, the city hereby acknowledges that the Antiquities Law of Mississippi (MCA 1972, § 39-7-1 et seq.), provides for the sensitive treatment of publicly owned property, improved or unimproved, shown to possess certain architectural, historical, or archaeological significance, which are designated by the board of trustees of the state department of archives and history as state landmarks. Whenever the city proposes to rehabilitate, alter, or enlarge a state landmark (or proposes similar actions which would affect a state landmark), the city shall submit its plans to the state department of archives and history for review and compliance.

(Code 1969, § 23-68)

Secs. 102-16—102-35. Reserved.

#### **SEC. 102-36. - NATCHEZ PRESERVATION COMMISSION: ESTABLISHMENT AND COMPOSITION**

- (a) By virtue of MCA 1972, § 39-13-5, as amended, the city is authorized to establish a preservation commission to preserve, promote, and develop the city's historical resources and to advise the city on the designation of preservation districts, landmarks, and landmark sites and to perform such other functions as may be provided by law.
  - (b) There is hereby created the Preservation Commission.
  - (c) All members of the commission are appointed by the mayor and board of aldermen and shall serve at the will and pleasure of the mayor and board of aldermen. The commission shall consist of not fewer than nine (9) members resident in the City of Natchez unless the state enabling legislation is amended to allow for a smaller commission, at which time the city may choose to decrease the size of the commission, in conformity with state law. All commission members shall have a demonstrated knowledge of or interest, competence, or expertise in historic preservation. To the extent available in the community, the city shall appoint professional members from the disciplines of architecture, history, architectural history, or archaeology or from additional disciplines such as urban planning, American studies, American civilization, cultural geography, cultural anthropology, interior design, law, and related fields. In conformity with the "State of Mississippi, Guidelines and Regulations for the Certified Local Government Program," the city shall document a good faith effort to locate professionals to serve on the commission before appointing lay members. The commission shall also seek the advice, as needed, of professionals not serving on the commission as follows:
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- (1) The city shall publish at least one notice in a newspaper in its jurisdiction to solicit responses from citizens who are professionals in the related fields of historic preservation and who are interested in serving on the commission. The city may contact known professionals and interested lay persons and invite submission of their qualifications in written resume form.
- (2) The city shall provide three (3) weeks (15 working days) for responses. Respondents shall submit, in written resume form, information concerning their demonstrated interest, competence, knowledge, or expertise. Such information should include, but is not limited to, educational and professional background, membership in appropriate preservation organizations, subscriptions to suitable professional publications, volunteer work, attendance at workshops and seminars, and other relevant experience.
- (3) When the city has collected adequate information concerning the potential appointees to the commission, it shall decide, with the assistance of the State Historic Preservation Office, if desired, which candidates can be considered professionals and which are most qualified for appointment to the commission.

(Code 1969, § 23-53)

#### **SEC. 102-37. - POWERS OF THE COMMISSION**

In order to preserve, promote, and develop the distinctive appearance and the historic resources of Natchez and to accomplish the purposes set forth in MCA 1972, § 39-13-1 et seq., and in this article:

- (1) The commission shall conduct or cause to be conducted a continuing study and survey of resources within the City of Natchez. This work may be carried out through or in conjunction with national, state, or local government agencies, suitable preservation organizations, and consultants to the city.
  - (2) The commission shall recommend to the city the adoption of ordinances designating preservation districts, landmarks, and landmark sites.
  - (3) As buildings, structures, objects, sites, and historic districts within the jurisdiction of the City of Natchez are listed in the National Register of Historic Places, or are officially determined eligible for such listing in writing by the State Historic Preservation Office, they shall automatically come under the jurisdiction of the Natchez Preservation Ordinance for a six (6) month period so that their designation can be considered. During this period, such properties shall be subject to all provisions of this ordinance otherwise applicable to resources. The commission, as appropriate, shall promptly notify the owners of such properties, in writing or by newspaper publication or other suitable public notice, that this provision has become applicable to them.
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- (4) The commission may recommend that the city recognize subdistricts within any preservation district, in order that the commission may adopt specific guidelines for the regulation of properties within such a subdistrict.
- (5) The commission shall review applications proposing construction, alteration, demolition, or relocation of any resource.
- (6) The commission shall grant or deny Certificates of Appropriateness, and may grant certificates of appropriateness contingent upon the acceptance by the applicant of specified conditions. After the adoption of written guidelines approved by the city, the commission may condition its approval of a Certificate of Appropriateness on the posting of a performance bond by an applicant in order to guarantee the applicant's financial ability to complete the project as proposed.
- (7) The commission shall not consider interior arrangements of buildings and structures except that it shall advise the state department of archives and history on questions relating to the interiors of publicly owned resources.
- (8) The commission, subject to the requirements of the city, is authorized to apply for, receive, hold, and spend funds from private and public sources, in addition to appropriations made by the city for the purpose of carrying out the provisions of this article.
- (9) The commission is authorized to employ such staff or contract with technical experts or other persons as may be required for the performance of its duties and to obtain the equipment, supplies, and other materials necessary for its effective operation, all subject to approval by the city.
- (10) The commission is authorized, solely in the performance of its official duties and only at reasonable times, to enter upon private land for the examination or survey thereof. No member, employee, or agent of the commission shall enter any private dwelling or structure without the express consent of the owner of record or occupant thereof.

#### **SEC. 102-38. - RULES OF PROCEDURE**

To fulfill the purposes of this article and carry out the provisions contained therein:

- (1) A majority of the members of the commission must vote in agreement to constitute any valid action of the commission.
  - (2) The commission annually shall elect from its membership a chairman and vice-chairman. It shall select a secretary from its membership or its staff. If neither the chairman nor the vice-chairman attends a particular meeting, the remaining members shall select an acting chairman from the members in attendance at such meeting. The commission shall annually elect one member to be responsible for signing affidavits to initiate actions by the city prosecuting attorney in situations
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where neither chairman, vice-chairman nor secretary is available to sign such an affidavit.

- (3) The commission shall develop and adopt rules of procedure which shall govern the conduct of its business, subject to the approval of the city. Such rules of procedure shall be a matter of public record.
- (4) The commission shall develop design review guidelines for determining appropriateness as generally set forth in Section VII of this ordinance. Such criteria shall insofar as possible be consistent with local, state, and federal guidelines and regulations, including, but not limited to, building safety and fire codes and the Secretary of the Interior's Standards For Rehabilitation.
- (5) The commission shall keep minutes and records of all meetings and proceedings including voting records, attendance, resolutions, findings, determinations, and decisions and other official actions such as signing affidavits to initiate civil or criminal prosecutions for actions taken in violation of this chapter or violations of certificates of appropriateness granted pursuant to the ordinance. All such material shall be a matter of public record.
- (6) The commission shall establish its own regular meeting time; however, the first meeting shall be held within thirty (30) days of the adoption of the ordinance from which this section derived and regular meetings shall be scheduled at least once every three (3) months. The chairman or any two (2) members may call a special meeting to consider an urgent matter.

(Code 1969, § 23-55, Ord. No. 1995-2, § 2, 1-10-95)

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**SECTION XIX - SEVERABILITY**

The requirements and provisions of this ordinance are separable. If any article, section, paragraph, sentence, or portion thereof, be declared by any court of competent jurisdiction to be void, invalid, or inoperative, the decision of the court shall not affect the validity or applicability of the ordinance as a whole or of any part thereof other than the part held void, invalid, or otherwise inoperative.

**SECTION XX - CONFLICTING ORDINANCES**

All ordinances and parts of ordinances in conflict herewith are hereby repealed.

**SECTION XI - CONFLICT WITH THE MISSISSIPPI ANTIQUITIES ACT**

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Likewise, all ordinances and part of ordinances in conflict with the Mississippi Antiquities Act (39-7-1 et. seq. of the Mississippi Code of 1972, as amended in 1983) are hereby repealed.

**SECTION XXII - EFFECTIVE DATE**

This ordinance shall become effective August 1, 1991.