

Section 3.13 Certificate of Appropriateness

3.13.010 Applicability

- A. Pursuant to the authority granted to the City by Texas Local Government Code Chapter 211 and the City Charter, a Certificate of Appropriateness is required in accordance with Table 3.13.010 below. Activities that include more than one Project (Scope of Work) shall be subject to the review process and criteria for approval for each specific Project as identified in Table 3.13.010. Non Single-family and Non Two-family Residential Structures.

Table: 3.13.010: Certificate of Appropriateness Required

| Project (Scope of Work) | Historic Significance | Review Authority |
|--|--------------------------------|------------------|
| HARC = Historic and Architectural Review Commission * HPO = Historic Preservation Officer NR = Not Required | | |
| <i>New Construction (Infill Development)</i> | | |
| New building construction | All Historic Overlay Districts | HARC |
| <i>Additions</i> | | |

| Project (Scope of Work) | Historic Significance | Review Authority |
|--|--------------------------------------|------------------|
| HARC = Historic and Architectural Review Commission * HPO = Historic Preservation Officer NR = Not Required | | |
| To create or add to an existing street facing facade | Historic Landmark | HARC |
| | Contributing Historic Structure | |
| | Non-contributing Historic Structure | HPO |
| Non-street facing facades | Historic Landmark | HARC |
| | Contributing Historic Structure | HPO |
| | Non-contributing Historic Structure | NR |
| New addition does not comply with the zoning standards of the historic overlay district | Historic Landmark | HARC |
| | Contributing Historic Structure | |
| | Non-contributing Historic Structure | |
| Awning or canopy | Historic Landmark | HARC |
| | Contributing Historic Structure* | HARC |
| | Non-contributing Historic Structure* | HPO |
| Porch, patio or deck | Historic Landmark | HARC |
| | Contributing Historic Structure* | |
| | Non-contributing Historic Structure* | HPO |
| <i>Reconstruction, Alterations, Changes</i> | | |
| Restoring historic architectural features | Historic Landmark | HPO |
| | Contributing Historic Structure* | |
| | Non-contributing Historic Structure | NR |
| Replacing a historic architectural feature with a non-historic architectural feature | Historic Landmark | HARC |
| | Contributing Historic Structure* | |
| | Non-contributing Historic Structure | NR |
| Replacing roof materials with different roof materials | Historic Landmark | HARC |
| | Contributing Historic Structure | HPO |
| | Non-contributing Historic Structure | NR |
| Modifications to exterior steps, stairways and ramps using in-kind material | Historic Landmark | HPO |
| | Contributing Historic Structure* | |
| | Non-contributing Historic Structure | NR |
| Modifications to exterior steps, stairways and ramps | Historic Landmark | HARC |
| | Contributing Historic Structure* | |
| | Non-contributing Historic Structure* | HPO |
| Paint removal from historic and significant architectural features (back to original condition; does not include repainting) | Historic Landmark | HPO |
| | Contributing Historic Structure* | |
| | Non-contributing Historic Structure | NR |
| Changes to paint color on previously painted surfaces (includes repainting or new paint on previously painted surface) | Historic Landmark | HPO |
| | Contributing Historic Structure* | |
| | Non-contributing Historic Structure* | |

| Project (Scope of Work) | Historic Significance | Review Authority |
|---|--------------------------------------|------------------|
| HARC = Historic and Architectural Review Commission * HPO = Historic Preservation Officer NR = Not Required | | |
| New paint on unpainted historic and other significant architectural features | Historic Landmark | HPO |
| | Contributing Historic Structure* | |
| | Non-contributing Historic Structure | NR |
| Changes in color to awning fabric | Historic Landmark | HPO |
| | Contributing Historic Structure* | |
| | Non-contributing Historic Structure* | |
| Exterior lighting that is attached to the building or structure | Historic Landmark | HPO |
| | Contributing Historic Structure* | |
| | Non-contributing Historic Structure* | |
| Rooftop HVAC, mechanical or communication equipment that result in no modifications to the building facade | Historic Landmark* | HPO |
| | Contributing Historic Structure* | |
| | Non-contributing Historic Structure* | |
| Rooftop HVAC, mechanical or communication equipment that result in modifications to the building facade | Historic Landmark | HARC |
| | Contributing Historic Structure* | HPO |
| | Non-contributing Historic Structure* | |
| <i>Removal, Demolition or Relocation</i> | | |
| Awnings or canopies | Historic Landmark | HARC |
| | Contributing Historic Structure* | |
| | Non-contributing Historic Structure | NR |
| Exterior non-historic architectural features | Historic Landmark | HPO |
| | Contributing Historic Structure* | NR |
| | Non-contributing Historic Structure | |
| Exterior siding to unencapsulate historic siding materials | Historic Landmark | HPO |
| | Contributing Historic Structure* | NR |
| | Non-contributing Historic Structure* | |
| Removal, stripping, concealing, or destruction of any historic and architectural features that is integral to the historic character of the building or structure, or historic overlay district | Historic Landmark | HARC |
| | Contributing Historic Structure* | |
| | Non-contributing Historic Structure* | HPO |
| Non-historic additions that are made of non-historic materials | Historic Landmark | HPO |
| | Contributing Historic Structure | |
| | Non-contributing Historic Structure | NR |
| Attached carport, porch, patio or deck | Historic Landmark | HARC± |
| | Contributing Historic Structure* | |
| | Non-contributing Historic Structure | NR |
| Attached carport, porch, patio or deck made of non-historic materials | Historic Landmark | HPO |
| | Contributing Historic Structure* | |
| | Non-contributing Historic Structure | NR |

| Project (Scope of Work) | Historic Significance | Review Authority |
|--|-------------------------------------|------------------|
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| Reopen enclosed porch, patio or deck to original condition | Historic Landmark | HPO |
| | Contributing Historic Structure* | |
| | Non-contributing Historic Structure | NR |
| Street facing façade | Historic Landmark | HARC± |
| | Contributing Historic Structure | |
| | Non-contributing Historic Structure | NR |
| Demolition that results in the reduction or loss in the total square footage of the existing structure | Historic Landmark | HARC |
| | Contributing Historic Structure | |
| | Non-contributing Historic Structure | NR |
| Relocation of a building or structure on the same lot | Historic Landmark | HPO |
| | Contributing Historic Structure | |
| | Non-contributing Historic Structure | |
| Relocation of a building or structure to a historic overlay district (includes relocation of buildings or structures within the same historic overlay districts) | Historic Landmark | HARC |
| | Contributing Historic Structure | |
| | Non-contributing Historic Structure | |
| Relocation of a building or structure outside of the historic overlay district | Historic Landmark | HARC |
| | Contributing Historic Structure | |
| | Non-contributing Historic Structure | NR |
| Signage | | |
| Master Sign Plan | All Historic Overlay Districts | HARC |
| New signage, to include new signage that is consistent with an approved Master Sign Plan | | HPO |
| New signage that is inconsistent with an approved Master Sign Plan or applicable Guidelines | | HARC |
| Changes in content or configuration (re-facing) that do not involve changes in sign location, dimensions, lighting or total sign area | | HPO |
| Amending an approved Master Sign Plan | | HARC |
| Fences | | |
| New fence, railing or wall that is inconsistent with the overlay district's characteristics and applicable guidelines | All Historic Overlay Districts + | HARC |
| Miscellaneous | | |

| Project (Scope of Work) | Historic Significance | Review Authority |
|--|--------------------------------|------------------|
| HARC = Historic and Architectural Review Commission * HPO = Historic Preservation Officer NR = Not Required | | |
| HARC exceptions (building height, setback and FAR variations pursuant to Section 4.08) | All Historic Overlay Districts | HARC |
| Renewal of an expired Certificate of Appropriateness | All Historic Overlay Districts | HPO |
| | Historic Landmark | |

- * Only applicable to a street facing façade
- + Only applicable to fences along a street lot line or located in a street yard
- ± CLG demo delay period and Demolition Subcommittee review not applicable

B. Exemptions

A Certificate of Appropriateness shall not be required for the following:

1. Ordinary Maintenance and Repair, as this term is defined in Chapter 16 of this Code.
2. Interior construction or alterations provided the alterations do not alter the exterior wall of the building.
3. New single-family and two-family residential development in the Old Town Overlay District provided the building is in compliance with the zoning standards of the Historic Overlay District.
4. New additions to existing single-family and two-family structures provided the addition does not create or add to a street facing façade, and the addition in combination with the existing building is in compliance with the zoning standards of the Historic Overlay District.
5. New, modifications or removal of existing awnings (to include changes in color), canopies, exterior paint color or exterior lighting that are attached to a single-family or two-family residential structure provided the alterations do not alter the exterior wall of a building designated as a Historic Landmark.
6. Demolition of a building or structure that the Building Official has declared a dangerous structure in accordance with Chapter 15.40 of the City Code, as amended, or determined that demolition is necessary for the preservation of the public health, safety and welfare.
 - a. Should the Building Official declare a building a dangerous structure or determine that demolition is necessary for the preservation of public health, safety and welfare, the Building Official shall coordinate with the Historic Preservation Officer and property owner to identify historic and significant architectural features that are unique to the building or structure, era or district and that may be salvaged.
 - b. The Historic Preservation Officer shall create a record of the building or structure to be demolished through archival-quality photo-documentation, drawings, and other information similar to those required by the Historic American Buildings

Survey. The list of identified historic and significant architectural features to be salvaged shall also be made part of this record.

7. New fence, railing or wall that is consistent with the overlay district's characteristics and applicable guidelines.
 8. Site alterations and other hardscape features provided that these do not alter a building or structure designated as a Historic Landmark or that is a contributing historic structure to the Historic Overlay District.
- C. No Building Permit shall be issued by the Building Official for any building or structure designated as a Historic Landmark or that is located in a Historic Overlay District until the application for such permit has been reviewed and approved by the Historic and Architectural Review Commission or the Historic Preservation Officer, as applicable, and the project, as proposed, is in compliance with all other applicable regulations of this Code.

3.13.020 Certificate of Appropriateness – Administrative Approval

A. Review Process

1. Initiation

Initiation of a Certificate of Appropriateness to the Historic Preservation Officer may be made upon application by the property owner of the affected property or their authorized agent following the established application processes and requirements of this Chapter.

2. Application Completeness

- a. The applicant shall submit all of the information and materials required in the UDC Development Manual as specified on the applicable Certificate of Appropriateness checklist.
- b. The Historic Preservation Officer shall determine that a complete application has been submitted with all material necessary to review the Certificate of Appropriateness' conformance with applicable criteria for approval in accordance with this Code.

3. Staff Review

Once a Certificate of Appropriateness has been initiated and the application deemed complete, the Historic Preservation Officer shall review the application for consistency with any applicable criteria for approval.

4. Responsibility for Final Action

- a. The Historic Preservation Officer is responsible for final action on a Certificate of Appropriateness for certain projects as specified in Section 3.13.010 of this Code.
- b. Should the Historic Preservation Officer be unable to approve the request, the Historic Preservation Officer may forward the request to the Historic and Architectural Review Commission for review and final action at the next available meeting following public notification in accordance with Section 3.03 of this Code.

B. Criteria for Approval

The Historic Preservation Officer shall determine whether to grant a Certificate of

Appropriateness based on the following criteria:

1. The application is complete and the information contained within the application is correct and sufficient enough to allow adequate review and final action;
2. Compliance with applicable design and development standards of this Code;
3. Compliance with the Secretary of the Interior's Standards for the Treatment of Historic Properties to the most extent practicable;
4. Compliance with the adopted Downtown and Old Town Design Guidelines, as may be amended from time to time, specific to the applicable Historic Overlay District; and
5. The overall character of the applicable Historic Overlay District and the building or structure is preserved, and the design is compatible with the Historic Overlay District.
6. The sign is in keeping with the adopted Downtown and Old Town Design Guidelines and character of the Historic Overlay District.

3.13.030 Certificate of Appropriateness – HARC Approval

A. Review Process

1. Initiation

Initiation of a Certificate of Appropriateness to the Historic and Architectural Review Commission may be made upon application by the property owner of the affected property or their authorized agent following the established application processes and requirements of this Chapter.

2. Application Completeness

- a. The applicant shall submit all of the information and materials required in the UDC Development Manual as specified on the applicable Certificate of Appropriateness checklist.
- b. The Historic Preservation Officer shall determine that a complete application has been submitted with all material necessary to review the Certificate of Appropriateness' conformance with applicable criteria for approval in accordance with this Code.

3. Staff Review

- a. Once a Certificate of Appropriateness has been initiated and the application deemed complete, the Historic Preservation Officer shall review the application for consistency with any applicable criteria for approval.
- b. The Historic Preservation Officer shall prepare a report to the Historic and Architectural Review Commission.
- c. The Historic Preservation Officer's report shall include a recommendation for final action.

4. Responsibility for Final Action

- a. The Historic and Architectural Review Commission shall review the application, the Historic Preservation Officer's report, conduct a hearing in accordance with the Historic and Architectural Review Commission's established procedures and

state law, and take final action on the application within 35 days of the application hearing unless the applicant agrees to extend the time.

- b. An application before the Historic and Architectural Review Commission shall be considered approved by a majority vote of all members of the Historic and Architectural Review Commission.

B. Criteria for Approval

The Historic and Architectural Review Commission shall determine whether to grant a Certificate of Appropriateness based on the following criteria:

1. The application is complete and the information contained within the application is correct and sufficient enough to allow adequate review and final action;
2. Compliance with any design standards of this Code;
3. Compliance with the Secretary of the Interior's Standards for the Treatment of Historic Properties to the most extent practicable;
4. Compliance with the adopted Downtown and Old Town Design Guidelines, as may be amended from time to time, specific to the applicable Historic Overlay District;
5. The general historic, cultural, and architectural integrity of the building, structure or site is preserved;
6. New buildings or additions are designed to be compatible with surrounding properties in the applicable Historic Overlay District;
7. The overall character of the applicable Historic Overlay District is protected; and
8. The Master Sign Plan is in keeping with the adopted Downtown and Old Town Design Guidelines and character of the Historic Overlay District.

C. Additional Criteria for Approval for Building Height Exceptions

1. Applicants requesting exceptions to the building height standards set forth in Section 4.08.020.A must submit documentation to HARC that the following standards will be met if the requested exception to the height standards is approved:
 - a. The proposed building or addition shall not obscure views to and from the Courthouse or overwhelm or detract from views of the Town Square Historic District;
 - b. The proposed building or addition shall be compatible with the height, scale, massing, and volume reflected in the Downtown Overlay District, and the historic character of the District; and
 - c. The proposed building shall be an extraordinary contribution to the aesthetic and economic goals of the Downtown Master Plan.
2. The documentation required by Section 3.13.030.C.1 must include, at a minimum, the following information:
 - a. A visual analysis that identifies:
 - i. The extent to which the building would impact views to and from the

Courthouse, and to what extent the building will be visible from four directions; and

- ii. How the building will relate to the context of the surrounding structures and the character of the District; and
 - b. A summary of the conclusions of the visual analysis as to how the proposed building will impact the District, specifically the immediate surroundings.
3. HARC may grant a request for a variation in height from the standards set forth in Section 4.08.020.A only if it determines that the following goals or purposes will still be achieved:
- a. Views to and from the Courthouse and to and from the Town Square Historic District will be protected; and
 - b. The character of the Downtown Overlay District and the Town Square Historic District will be defined, reinforced, and preserved; and
 - c. The relationship of the proposed project to the existing structures in the immediate vicinity remains consistent; and
 - d. The proposed project allows for the best utilization of redevelopment in the Downtown Overlay District and the Town Square Historic District; and
 - e. The proposed project protects the historic buildings in the Downtown Overlay District.

D. Additional Criteria for Approval of a Setback Exception

1. The Historic and Architectural Review Commission may grant a Certificate of Appropriateness, per Section 4.08.080.D of this Code, to modify the setback standards of the underlying base zoning district for residential properties located within the Old Town Overlay District.
2. HARC may take in consideration the following in determining whether to approve a Certificate of Appropriateness for a setback exception:
 - a. Whether the proposed setback encroachment is solely a matter of convenience;
 - b. Whether there is adequate room on the site to allow the proposed addition or new structure without encroaching into the setback;
 - c. Whether the proposed setback is compatible and in context within the block in which the subject property is located;
 - d. Whether the proposed addition or new structure will be set closer to the street than other units within the block;
 - e. Whether the proposed structure is replacing a structure removed within the past year;
 - f. Whether the proposed structure will replace a structure that previously existed with relatively the same footprint and encroachment as proposed;
 - g. If the proposed encroachment is for a structure that is replacing another structure,

whether the proposed structure is significantly larger than the original;

- h. If the proposed encroachment is for an addition, the scale of the addition compared to the original house;
- i. The size of the proposed structure compared to similar structures within the same block;
- j. Whether the proposed addition or new structure will negatively impact adjoining properties, including limiting their ability to maintain existing buildings;
- k. Whether there is adequate space for maintenance of the proposed addition or new structure and/or any adjacent structures; and/or
- l. Whether the encroachment would enable existing large trees or significant features of the lot to be preserved.

E. Additional requirements for relocation, removal or demolition of a Historic Landmark or contributing historic structure

In addition to the Staff Review process established in Section 3.13.030.A, applications for a Certificate of Appropriateness for the relocation, removal or demolition of a building or structure designated as a Historic Landmark or contributing historic structure shall be subject to the following additional review:

1. Demolition Delay Period Certified Local Government (CLG) Program

- a. Upon deeming the application complete, requests for a Certificate of Appropriateness for demolition of a Historic Landmark or contributing historic structure shall be subject to a 60-day demolition delay period. The Historic and Architectural Review Commission shall not take action on a request for demolition until the 60-day demolition delay period is complete.
- b. During this 60-day delay period, the applicant shall coordinate with the Historic Preservation Officer to reach a satisfactory resolution that preserves the building or structure, or that preserves historic and significant architectural features that are unique to the building or structure, era or district.
- c. The Historic Preservation Officer shall coordinate with local, county and other historic organizations to explore possibilities for preserving, to include the possible relocation of the structure.
- d. The Historic Preservation Officer shall present the findings and resolution, if applicable, to the Historic and Architectural Review Commission with the request.

2. Demolition Subcommittee Review

- a. No later than the 30th day from deeming the application complete, the Historic and Architectural Review Commission's Demolition Subcommittee shall complete a walk-through of the building or structure proposed to be demolished or relocated with the Historic Preservation Officer and the applicant.
- b. The Demolition Subcommittee shall review the application and analyze the building or structure to determine possibility of preservation and restoration, and appropriateness for demolition or relocation. In the event of demolition, the

Demolition Subcommittee shall also create a list of historic salvageable materials identified during the walk-through.

- c. The Demolition Subcommittee's report shall include a recommendation for final action.

3. Responsibility of Final Action

- a. In addition to the application and Historic Preservation Officer's report, the Historic and Architectural Review Commission shall review the recommendation by the Demolition Subcommittee, conduct a Hearing in accordance with the HARC's established procedures and state law, and take final action on the application within 35 days of the application Hearing unless the applicant agrees to extend the time.
- b. As conditions of approval, the Historic and Architectural Review Commission may require historic materials to be salvaged, archival-quality photo-documentation, and/or architectural drawings of the building or structure proposed to be demolished or relocated similar to those required by the Historic American Buildings Survey to be submitted to the Historic Preservation Officer.

F. Criteria for Approval for relocation, removal or demolition of a Historic Landmark or contributing historic structure

1. The Historic and Architectural Review Commission shall use circumstances or items that are unique to the building or structure proposed to be relocated, removed or demolished when reviewing the application.
2. The Historic and Architectural Review Commission shall make the following findings when considering a request for demolition or relocation of a structure:
 - a. Loss of Significance
 - i. The applicant has provided information that the building or structure is no longer historically, culturally or architecturally significant, or is no longer contributing to the Historic Overlay District; and
 - ii. The applicant has established that the building or structure has undergone significant and irreversible changes, which have caused the building or structure to lose the historic, cultural or architectural significance, qualities or features which qualified the building or structure for such designation; and
 - iii. The applicant has demonstrated that any changes to the building or structure were not caused either directly or indirectly by the owner, and were not due to intentional or negligent destruction, or lack of maintenance rising to the level of a demolition by neglect; and
 - iv. Demolition or relocation of the building or structure will not cause significant adverse effect on the Historic Overlay District or the City's Historic Resources; or
 - b. Unreasonable Economic Hardship
 - i. The applicant has demonstrated that the property owner cannot take

reasonable, practical or viable measures to adaptively use, rehabilitate or restore the building or structure, or make reasonable beneficial use of, or realize a reasonable rate of return on a building or structure unless the building or structure may be demolished or relocated; and

- ii. The applicant must prove that the structure cannot be reasonably adapted for any other feasible use, which would result in a reasonable rate of return; or
- c. There is a compelling public interest that justifies relocation, removal or demolition of the structure.

3. Relocation of a structure to a Historic Overlay District

In the event the building or structure is proposed to be relocated to a property in a Historic Overlay District, in addition to the above, the applicant must demonstrate the following with the application:

- a. The architectural compatibility of the relocated building or structure with adjacent buildings according to the applicable Downtown and Old Town Design Guidelines and UDC standards for new construction; and
- b. The proposed siting, setback and other applicable site-specific treatments according to pertinent Downtown and Old Town Design Guidelines and UDC standards of the applicable Historic Overlay District; and
- c. Relocation will not damage existing contributing historic buildings or structures, or the character of the Historic Overlay District.

3.13.040 Relocation, removal or demolition prior to approval of a Certificate of Appropriateness

- A. Demolition, including demolition by neglect, of a building or structure prior to approval of a Certificate of Appropriateness by the Historic and Architectural Review Commission, when required, shall be subject to an automatic hold on all permits. No permit may be granted until this period is complete and the Historic and Architectural Review Commission has granted a Certificate of Appropriateness for the demolition of the remaining building or structure, if applicable.
- B. The permit delay period shall be determined by the Historic and Architectural Review Commission, but in no case shall it exceed 365 days.
- C. The Certificate of Appropriateness for the demolition of the remaining building or structure, if applicable, shall be reviewed and final action taken by the Historic and Architectural Review Commission concurrently with the determination of the longevity of the permit hold period.
- D. During this delay period, the applicant shall provide the following information to the Historic Preservation Officer:
 - 1. Documentation regarding the original and existing condition of the building or structure, to include structural integrity and the extent of work necessary to stabilize the building or structure.
 - 2. Site Development Plan (or Plot Plan) identifying proposed development on site

following demolition of the building or structure.

3. List of any salvageable materials, and a plan offering donation or sale of the remaining building or structure and any salvageable materials identified.
- E. In the event of demolition by neglect, the applicant shall complete any work required to stabilize and arrest further deterioration of the building or structure.

3.13.050 Certificate and Compliance Inspections

- A. It shall be the responsibility of the Historic Preservation Officer to issue the actual Certificate of Appropriateness following approval by the Historic Preservation Officer or the HARC, with any designated conditions, and to maintain a copy of the Certificate of Appropriateness, together with the proposed plans. The Certificate shall be forwarded to the Building Official. These shall be public documents for all purposes.
- B. Work performed pursuant to the issuance of a Certificate of Appropriateness shall conform to the requirements of the Certificate. In the event that work is not in compliance, the Building Official shall issue a stop work order and/or citation as prescribed by ordinance.

3.13.060 Limits on Resubmission

No application for the same project shall be considered within 180 days of the rejection or disapproval by the Historic and Architectural Review Commission or Historic Preservation Officer, as applicable, of an application. The applicant may submit a design for an entirely new project or a revised design that substantially responds to the reasons for denial as set forth by the Historic and Architectural Review Commission or Historic Preservation Officer, as applicable, at any time.

3.13.070 Expiration

- A. A Certificate of Appropriateness, except as noted below, expires if the work authorized by the Certificate of Appropriateness is not commenced within 24 months from the date of the final action to approve the request. In the case of a phased project, after the initial phase is complete or a Certificate of Occupancy has been issued, each subsequent phase shall commence within 24 months of the completion or Certificate of Occupancy of the prior phase. The Historic Preservation Officer may extend the time commencement of work upon written request by the applicant.
- B. A Certificate of Appropriateness for relocation, removal or demolition expires if a Permit for relocation or demolition has not been issued within 180 days or, if a permit is not required, the work authorized by the Certificate of Appropriateness is not commenced within 180 days from the date of the final decision to approve the request. The Historic Preservation Officer may extend the time for commencement of work upon written request of the applicant.

3.13.080 Appeals

A person aggrieved by a final action of the Historic and Architectural Review Commission on a Certificate of Appropriateness may appeal to the City Council, pursuant to the procedures set forth below. Such appeal shall be submitted to the Historic Preservation Officer within 30 days of the final action.

Appeals from an administratively issued Certificate of Appropriateness will be processed through the Historic and Architectural Review Commission, subject to the procedures established for new applications. Such appeal shall be submitted to the Historic Preservation Officer within 30 days of the administrative action.

A. Appeal Hearing

The Hearing shall be set for the next available City Council or HARC meeting, subject to the provision of public notification. Notification shall be provided in the same manner as the initial Certificate of Appropriateness.

B. Burden of Proof in Appeals

When an appeal is considered by the appellate body, the final action by the original reviewing authority is presumed to be valid. The person filing the appeal shall present sufficient evidence and have the burden to justify a reversal of the action being appealed.

C. Findings and Conclusions

All findings and conclusion necessary to the appeal decision shall be based upon reliable evidence. Competent evidence (evidence admissible in a Court of Law) will be preferred whenever reasonably available, but in no case may findings be based solely upon incompetent evidence unless competent evidence is not reasonably available, the evidence in question appears to be particularly reliable, and the matter at issue is not seriously disputed. In exercising its authority, the appellate body may reverse or affirm, in whole or in part or modify the original order, requirement, decision, or determination from which an appeal is taken and make the correct order, requirement, decision, or determination, and for that purpose the appellate body has the same authority as the original reviewing authority.

D. Decision on Appeal

The appellate body shall review the application, the staff report and meeting minutes, conduct a Hearing in accordance with established procedures and state law, and take final action on the appeal. It shall require a concurring vote of a majority of the appellate body's members to overturn a decision on a Certificate of Appropriateness.