

## **CAPITOL ZONING DISTRICT COMMISSION**

### **Emergency Rule to Amend Certain Text in the Rehabilitation Standards for Historic Properties**

WHEREAS, the Capitol Zoning District Commission is authorized to adopt rules and regulations as may be necessary for the implementation of the Capitol Zoning District Master Plan pursuant to Ark. Code Ann. § 22-3-305 and 22-3-307; and

WHEREAS, in November 2011, Pulaski County Circuit Court ruled that certain sections of the agency's Rehabilitation Standards for Historic Properties are not enforceable as written, and this matter is still pending before the Arkansas Court of Appeals; and

WHEREAS, an inability to evenly apply all of the agency's rules could result in inappropriate changes not in keeping with the Master Plan; and

WHEREAS, such changes could lead to the degradation of the Capitol Zoning District's historic character and could serve to harm property values;

THEREFORE, the Capitol Zoning District Commission determines that imminent peril to the welfare of District property owners, residents, and lovers of this state's history will exist if this rule is not promulgated on an emergency basis. Therefore, an emergency is declared to exist and the Capitol Zoning District Commission promulgates this rule as an emergency rule pursuant to the Arkansas Administrative Procedures Act (Act 434 of 1967, as amended). This rule shall become effective immediately upon filing.

# **THE REHABILITATION STANDARDS FOR HISTORIC PROPERTIES**

## **ABOUT THIS DOCUMENT (page 9)**

The following document applies to the treatment of all historic properties within the jurisdiction of the Capitol Zoning District Commission. This includes properties within the Capitol Area and the Mansion Area. The standards address treatment of existing historic features, repair of deteriorated details and replacement of missing elements.

In addition, design standards for new construction and site improvements for the relevant zone ~~ing district area~~ may also apply to a specific project. Furthermore, underlying policies for these design standards are presented in the Master Plans for the Capitol and Mansion Areas. ~~Refer to the chart on the next page to determine which other documents may apply.~~

An asterisk adjacent to a statement in the text indicates that it is a standard ~~directly enforced that will not be waived~~ by the Capitol Zoning District Commission ~~for historic structures or site features built during the District's period of significance, except as an Economic Hardship. For other historic structures or site features, these standards may be waived if it is demonstrated to the Commission's satisfaction that such a waiver will not adversely affect the historic integrity of the property or the surrounding neighborhood.~~ Other text, ~~without an asterisk is provided as advisory information and may also, in some circumstances, will also~~ be considered in the Commission's reviews, ~~but may be waived if it is demonstrated to the Commission's satisfaction that such a waiver will not adversely affect the historic integrity of the surrounding neighborhood.~~



A check mark with an illustration indicates that it is an example of an appropriate treatment.



An "x" mark with an illustration indicates that it is an example of an inappropriate treatment.

The letter "R" precedes each of these ~~se design~~ standards, to indicate that it is a part of the Rehabilitation Standards document.

## **APPENDIX A: INTERPRETATION OF TERMS RELATED TO COMPLIANCE (page A-55)**

These definitions apply to terms related to compliance in the preceding text.

*Appropriate* - In some cases, a stated action or design choice is defined as being "appropriate" in the text. In such cases, by choosing the ~~design~~ approach referred to as "appropriate," the reader will be in compliance with the standard. However, in other cases, there may be an ~~an approach design~~ that is not expressly mentioned in the text that also may be deemed "appropriate" by the CZDC.

*Consider* - When the term "consider" is used, a design suggestion is offered to the reader as an example of one method of how the design standard at hand could be met. Applicants may elect to follow the suggestion but may also seek alternative means of meeting it. In other cases, the reader is instructed to evaluate the ability to take the course recommended in the context of the specific project.

*Context* - In many cases, the reader is instructed to relate to the context of the project area. The “context” is comprised of those properties and structures adjacent to, and within the same block, as the proposed project.

*Historic* - In general, a historic property is one that is at least 50 years old or older and largely unchanged, and some properties less than 50 years old may also be considered historic if they are of exceptional significance. The CZDC is especially concerned with those properties that are associated with significant people or events or conveys a character of building and design found during the neighborhood's-District's period of significance, roughly 1880-1940. ~~In the context of this document, a “historic” property is one that is officially listed by the CZDC.~~ Note that in some cases, a CZDC-designated property may also be listed in the National Register of Historic Places.

~~*Imperative mood*—Throughout this document, many of the standards are written in the imperative mood. The reader is often instructed to “maintain” or “preserve” an established characteristic. For example, one standard states: “Maintain the original proportions of a door.” In such cases, the user shall comply. The imperative mood is used, in part, because this document is intended to serve an educational role as well as a regulatory one.~~

*Inappropriate* - Inappropriate means impermissible. When the term “inappropriate” is used, the relevant design approach shall not be allowed. For example, one standard states: “A new addition that creates an appearance inconsistent with the historic character of the building is inappropriate.” In this case, a design out of character with the historic building would not be approved.

*Integrity* - A building's "integrity" is a measure of the wholeness or quality of all of the historic features which make up the building. A building that has been added to and had features removed is said to have had its integrity compromised.

*Primary Facade* - The primary facade is the principal elevation of a building, usually facing the street or other public way.

*Shall* - Where the term “shall” is used in a ~~design~~ standard, compliance is required. ~~For example, one standard states: “The front of a primary structure shall be oriented to the street.”~~

*Should* - If the term “should” appears in a ~~design~~ standard, compliance is ~~strongly encouraged but is not~~ required, but may be waived, if it is demonstrated to the Commission's satisfaction that such a waiver will not adversely affect the historic integrity of the property or the surrounding neighborhood.

*Standard* - In the context of this document, a “standard” is a requirement that must be met, in order to be in accordance with the intent of the preservation principles.

*Streetscape* - All of the elements which make up a block— sidewalks, curbs, trees, front yards, fences, buildings, signage and lighting—contribute to the existence of a "streetscape." These elements all are important to the identification of the neighborhood.