

Chapter 15
Planning

ARTICLE I
In General

Sec. 15-1. Reimbursement by the city for certain expenses in connection with commercial, industrial and residential property development.

- (a) *Authorized.* The city will reimburse any person, developing property for industrial, commercial or residential purposes up to the entire estimated cost of investments in infrastructure associated with such development.
- (b) *Definitions.* The following words and phrases as used in this section shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Infrastructure means improvements to undeveloped land consisting of sanitary sewers, streets and storm sewers located in public rights-of-way which by nature provide service to the general public. Similar nonpublic improvements which are oriented to a specific structure or structures, such as a sidewalk from the street to a specific structure or structures, a sewer line serving a specific structure or structures, a driveway serving a specific structure or structures, etc., are not classified as infrastructure for purposes of this section.

Residential project means a project defined as a development in which fifty (50) percent or more of the land area is designated to be sold as owner occupied residential structures. All other developments not classified as residential shall be considered commercial or industrial.

- (c) *Application.* No payment will be made to any person under the terms of this section until application is made to the city for the approval of such development and request is made for reimbursement for specific public improvements; such application will include all necessary information requested by the city engineer or other appropriate city departments.

- (d) *Agreement required.* The repayment to a developer under the provision of this section shall be made only after an agreement has been entered into between the developer and the city setting forth the particular public improvements which are eligible for reimbursement. Such agreement will not be executed until after the city engineer has estimated the cost of such infrastructure and has approved and signed a copy of the plans and specifications for the development.
- (e) *Maximum amount.* The repayment to a developer under the provisions of this section shall be made, without interest, in annual installments in an amount not to exceed seventy-five (75) percent of the amount of property taxes collected for that year from the improvements subject to property taxes within the approved project area.
- (f) *Term of reimbursement for residential developments.* Reimbursement for improvements in a residential development will begin the first full calendar year after the year in which the city engineer approves the construction plans and specifications submitted by the developer and continue for a total of ten (10) years or until the reimbursement is complete, whichever occurs first.
- (g) *Term of reimbursement for commercial or industrial developments.* Reimbursement for improvements in a commercial or industrial development will begin the first full calendar year after the year in which the city engineer approves the construction plans and specifications submitted by the developer and continue for a total of eleven (11) years or until the reimbursement is complete, whichever occurs first.
- (h) *Annexed property.* If property is annexed to the city and is subject to development under the provisions of this section, the repayment hereunder to a developer shall be made, without interest, in annual installments in an amount not to exceed seventy-five (75) percent of the amount of property taxes collected for that year from the improvements and land subject to property taxes within the approved project area.
- (i) *Extension of time limits for reimbursement.* The city council may extend the time limits for reimbursement for improvements set forth in subsections (f) and (g):
 - (1) If it finds that unusual and extraordinary circumstances exist during development making it impossible to complete the development in such time period; and

- (2) If the development has a reasonable likelihood of being completed and will substantially add to the tax base of the city.
- (j) *Conditions for Approval.* Approval or denial of any application for reimbursement for infrastructure expenses is at the sole discretion of the City. The City Manager shall be authorized to determine whether a proposed project is consistent with the development objectives of the City of Spartanburg. The City Manager is further authorized to negotiate terms, conditions, or other limitations on the provision of any reimbursement up to the limits specified in preceding paragraphs of this section.

Secs. 15-2--15-25. Reserved.

**ARTICLE II.
Planning Commission**

DIVISION 1. GENERALLY

Sec. 15-26. Created.

There is hereby established, under the provisions of state law, a planning commission for the city and its environs, with the jurisdiction, powers and duties set forth in this article.

Sec. 15-27. Members; appointment; compensation; terms; holding other municipal offices.

- (a) The planning commission shall consist of seven (7) members appointed by the city council.
- (b) All members of the commission shall serve as such without compensation and the appointive members shall hold no other municipal office, except that one (1) such member may be a member of the board of adjustment.
- (c) The terms of office of the members of the commission shall be for four (4) years and until their successors are appointed and qualified.
- (d) The city manager shall become a member of the commission, ex officio, and may confer with the commission on all matters.

Sec. 15-28. Removal of members; vacancies.

- (a) Members of the planning commission may, after a public hearing, be removed by the city council for inefficiency, neglect of duty or malfeasance in office. The city council shall file a written statement of reasons for such removal.
- (b) Vacancies occurring otherwise than through the expiration of a term shall be filled for the unexpired term by the city council.

Sec. 15-29. Officers; meetings; rules; records.

The planning commission shall elect its chairman from among the appointed members and create and fill such other of its offices as it may determine. The term of office of the chairman shall be one (1) year and the chairman shall be eligible for reelection. The commission shall hold at least one (1) regular meeting in each month. It shall adopt rules for the transaction of business and shall keep a record of its recommendations, transactions, findings and determinations. Such record shall be a public record.

Sec. 15-30. Powers generally.

In general the planning commission shall have such powers as may be necessary to enable it to fulfill its functions, promote municipal planning or carry out the purposes of this article.

Sec. 15-31. To have powers of former zoning commissions.

The planning commission shall have all powers previously granted by law to any zoning commission of the city, and the powers and records of any and all zoning commissions heretofore established for the city are hereby transferred to the planning commission.

Sec. 15-32. Expenditures.

The expenditures of the planning commission, exclusive of gifts, shall be within the amounts appropriated for the purpose by the city council, which shall provide the funds, equipment and accommodations which it may deem necessary for the commission's work.

Sec. 15-33. Right of commissioners, etc., to enter, survey, etc., land.

The planning commission, its members, officers and employees, in the performance of their functions, may enter upon any land and make examinations and surveys and place and maintain necessary monuments and marks thereon.

Secs. 15-34--15-55. Reserved.

DIVISION 2. MASTER PLAN FOR PHYSICAL DEVELOPMENT*

Sec. 15-56. Authority to make and adopt.

The planning commission shall make or cause to be made and adopt a master city plan for the physical development of the city, including any areas outside of its boundaries which, in the commission's judgment, bear any relation to the planning of the city.

Sec. 15-57. General purpose.

The plan referred to in this division shall be made and used for the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development or redevelopment of the city and its environs which will, in accordance with present and future needs, best promote the public health, safety, morals, order, convenience, prosperity and general welfare, as well as efficiency and economy in the process of development or redevelopment, including adequate provision for traffic, the promotion of safety from fire or other dangers, adequate provision for light and air, the promotion of the healthful and convenient distribution of population, the promotion of good civic design and arrangement, wise and efficient expenditure of public funds and the adequate provision of public utilities and other public requirements.

Sec. 15-58. Contents.

The master plan with the accompanying maps, plats, charts and descriptive matter, shall show the planning commission's recommendations for:

- (1) The development and redevelopment of such territory, including the general location, character and extent of streets, viaducts, subways, bridges, waterways, waterfronts, boulevards, parkways, playgrounds, squares, parks, aviation fields and other public ways, grounds and open spaces, the general location of public buildings and other public property and the general location and extent of public utilities and terminals;

- (2) The removal, relocation, widening, narrowing, vacating, abandonment, change of use or extension of any public ways, grounds, open spaces, buildings, property, utilities or terminals;
- (3) A zoning plan for the control of the height, area, bulk, location, use and intensity of use of buildings, structures and premises and of population density;
- (4) The general location, character, layout and extent of community centers and neighborhood units; and
- (5) The general character, extent and layout of the re-planning of blighted districts and slum areas.

The planning commission may from time to time amend, extend or add to the master plan.

Sec. 15-59. Studies and surveys for plan.

In the preparation of the master plan, the planning commission shall make or cause to be made careful and comprehensive surveys and studies of present conditions and trends of future growth of the city and shall also give due regard to the relation of the city to any neighboring territory.

Sec. 15-60. Public hearing for adoption, amendment, etc.

Before the adoption of the plan referred to in this division or any such part, amendment, extension or addition, the planning commission shall hold at least one (1) public hearing thereon, after not less than five (5) days' notice of the time and place of such hearing shall have been given by at least one (1) publication in a newspaper having general circulation in the city.

Sec. 15-61. Adoption of plan as a whole or by successive resolutions.

The planning commission may adopt the plan as a whole by a single resolution or may by successive resolutions adopt parts of the plan, such parts corresponding with the major geographical sections or divisions of the city or with functional subdivisions of the subject matter of the city plan, and may adopt any amendment or extension thereof or addition thereto.

Sec. 15-62. Resolution of adoption; certification to council.

The adoption of the plan or of any part, amendment, extension or addition shall be by resolution of the planning commission, carried by the affirmative vote of not less than a majority of the entire membership of the commission. The resolution shall refer expressly to the maps and other descriptive matter intended by the planning commission to form the whole or part of the plan and the action as taken shall be recorded on the map and plan and descriptive matter by the identifying structures of the chairman and secretary of the commission. An attested copy of the plan or part thereof as adopted and approved shall be certified to the city council and to all legislative and administrative agencies affected by the plan.

Sec. 15-63. Publicizing plan; advising and consulting with other agencies.

The planning commission may promote public interest in an understanding of the plan and to that end may publish and distribute copies of the plan or of any report and may employ such other means of publicity and education as it may determine. Members of the commission and any of its employees, when duly authorized by the commission, may attend city planning conferences or meetings of city planning institutes or hearings upon pending city planning legislation and the commission may, by resolution, spread upon its minutes, pay the reasonable traveling expenses incident to such attendance. The commission shall, from time to time, recommend to the appropriate public officials, programs for public structures and improvements and for the financing thereof. It shall consult and advise with public officials and agencies, public utility companies, civic, educational, professional and other organizations and with citizens with relation to the projecting or carrying out of the plan.

Sec. 15-64. Commission approval required for new streets, public buildings, etc., in areas covered by plan; overruling commission.

- (a) Whenever the planning commission shall have adopted the master plan of the city or of one (1) or more sections or districts thereof, no new street, square, park or other public way, grounds or open space or public building, public structure or public utility, whether publicly or privately owned, shall be constructed or authorized in the city or in such planned section or district until the location, character and extent thereof shall have submitted to and approved by the commission.

(b) In case of disapproval, the planning commission shall communicate its reasons to the city council, which shall have the power to overrule such disapproval by the recorded vote of not less than two-thirds of its entire membership; but if the public way, ground, space, building, structure or utility within the city be one the authorization or financing of which does not, under the law, fall within the province of the city council, then the submission of the planning commission shall be by the board, commission or body having such jurisdiction and the planning commission's disapproval may be overruled by the board, commission or body by a vote of not less than two-thirds of its membership. The failure of the planning commission to act within sixty (60) days from and after the date of official submission to it shall be deemed approval.

Sec. 15-65. Building or setback lines on streets in major street plan; public hearing on setback regulations.

Whenever the plan for a major street system has been adopted and properly filed, the city council, upon recommendation of the planning commission, may establish, regulate and limit, by ordinance, building or setback lines on such existing and proposed major streets or highways and may prohibit any new building being located within such building or setback lines, within the corporate limits of the city. The setback regulations shall not be adopted, changed or amended until a public hearing has been held thereon, after not less than fifteen (15) days' notice of the time and place of such hearing shall have been given by publication in one (1) or more issues of a paper having general circulation in the city.

Secs. 15-66--15-85. Reserved.

DIVISION 3. REGULATION OF SUBDIVISIONS

Sec. 15-86. Territorial jurisdiction.

The territorial jurisdiction of the municipal planning commission over the subdivision of land shall include all land located in the city limits.

Sec. 15-87. Approval of plats required.

Whenever the planning commission shall have adopted a major street plan of the territory within its subdivision jurisdiction

or part thereof, then no plat of a subdivision of land within such territory or part shall be filed or recorded until it shall have been approved by the planning commission and such approval entered in writing on the plat by the chairman or secretary of the commission.

Sec. 15-88. Commission to prepare regulations.

Before exercising the powers referred to in section 15-87 the planning commission shall prepare regulations governing the subdivision of land within its jurisdiction. Such regulations may provide for the proper arrangement of streets, in relation to other existing planned streets and to the master plan, for adequate and convenient open spaces for traffic, utilities, access of firefighting apparatus, and shall be subject to approval by the city council.

Sec. 15-89. Hearings on proposed regulations.

Before any such regulations shall be adopted by the planning commission a public hearing shall be held thereon, notice of the time and place of which shall be published fifteen (15) days prior to the date of such hearing in a newspaper having general circulation in the city.

Sec. 15-90. General contents of regulations.

Such regulations may include provisions as to the extent to which streets and other ways shall be graded and improved and to which water, sewer and other utility mains, piping or other facilities shall be installed as a condition precedent to the approval of the plat. The regulations or practice of the planning commission may provide for a tentative approval of the plat previous to such installation, but any such tentative approval shall be revocable and shall not be entered on the plat. In lieu of the completion of such improvements and utilities prior to the final approval of the plat, the commission may accept a bond with adequate surety to secure to the city the actual construction and installation of such improvements or utilities at a time and according to specifications fixed by or in accordance with the regulations of the commission. The city may enforce such bond by all appropriate legal and equitable remedies.

Sec. 15-91. Hearing on approval or disapproval of plats.

Any plat submitted to the planning commission shall contain the name and address of a person to whom notice of a hearing

shall be sent and no plat shall be acted on by the commission without affording a hearing thereon. Notice shall be sent to such address by registered mail of the time and place of such hearing not less than five (5) days before the date fixed therefor.

Sec. 15-92. Time for approval or disapproval of plat; statement of ground of disapproval.

The planning commission shall approve or disapprove a plat within thirty (30) days after the submission thereof to it. Otherwise such plat shall be deemed to have been approved and a certificate to that effect shall be issued by the commission on demand; but the applicant for the commission's approval may waive this requirement and consent to an extension of such period. The ground of disapproval of any plat shall be stated upon the records of the commission.

Sec. 15-93. Effect of approval of plat.

Every plat approved by the planning commission shall, by virtue of such approval, be deemed to be an amendment of, an addition to or a detail of the city plan and a part thereof. Approval of a plat shall not be deemed to constitute or affect an acceptance by the public of any street or other open space shown upon the plat.

Sec. 15-94. Restrictions as to use, height, etc.

The planning commission may agree with the applicant upon the use, height, area or bulk requirements or restrictions governing buildings and premises within the subdivision, provided such requirements or restrictions do not authorize the violation of the then effective zoning ordinance of the city. Such requirements or restrictions shall be stated upon the plat prior to the approval and recording thereof and shall have the same force of law and be enforceable in the same manner and with the same sanctions and penalties and subject to the same power of amendment or repeal as though set out as a part of the zoning ordinance or map of the city.

Sec. 15-95. Recommendations for zoning amendments.

The planning commission may, from time to time, recommend to the city council amendments of the zoning ordinance or map or additions thereto to conform to the commission's recommendations for the zoning regulation of the territory comprised within approved subdivisions.

Sec. 15-96. Naming of streets.

The planning commission shall, by proper certificate, approve and authorize the name of any street or road hereafter laid out within the territory over which such commission has jurisdiction. It shall be unlawful for any person in laying out any new street or road within the territory over which the planning commission has jurisdiction to name such street or road on any plat, by any marking or in any deed of instrument without first getting the approval of the commission of the name selected and given to such street or road.

Sec. 15-97. Changing names of streets.

- (a) The planning commission may, after reasonable notice through the public press printed in the city, and subject to approval by the city council, change the name of any street or road within the boundary of its territorial jurisdiction:
- (1) When there is duplication of names of other conditions which tend to confuse the traveling public or the delivery of mail, orders or messages;
 - (2) When it is found that a change may simplify marking or giving of directions to persons seeking to locate addresses; or,
 - (3) Upon any other good and just reason that may appear to the commission.
- (b) On such name being changed, after reasonable opportunity for a public hearing, the planning commission shall issue its certificate designating the change which shall be recorded in the office of the register of mesne conveyances of the county and the name as so changed and certified shall thereafter be the legal name of the street or road.

Secs. 15-98--15-200. Reserved.

**ARTICLE III
BOARD OF ARCHITECTURAL DESIGN AND HISTORIC REVIEW**

Sec. 15-201. Title.

This article shall be known as the Spartanburg Historic Preservation Ordinance, Section 10-A of the Zoning Ordinance of the City of Spartanburg.

Sec. 15-202. Purpose.

This article is adopted in accordance with South Carolina Code 6-29-870 et seq. (1976 as amended) to provide for the preservation and protection of historic and architecturally valuable districts and sites in the City of Spartanburg. Its purpose is to encourage the identification, protection, preservation and enhancement of the unique and special character of defined districts and sites by means of restrictions and conditions governing the right to erect, demolish in whole or in part, or alter the exterior appearance of structures within such areas.

Sec. 15-203. Definitions.

The following definitions shall apply in all parts of this article:

Alteration: Any act or process that changes one or more of the exterior architectural features of a structure including, but not limited to, the erection, construction, reconstruction, relocation, or removal of any structure. Not a repair.

Construction: The act of putting an addition on an existing structure or the erection of a new primary or accessory structure on a lot or site.

Demolition: Any act or process that destroys in part or in whole a structure within a historic district or on a historic site.

Department: The Department of Planning and Community Development for the City of Spartanburg.

Exterior architectural appearance: The architectural character and general composition of the exterior of a structure visible from a public street, including, but not limited to, the kind and texture of the building material and the type, design, and character of all windows, doors, light fixtures, signs, and appurtenant elements.

Historic district or district: A geographically definable area possessing a significant concentration, linkage, or continuity of sites, structures, or objects united by past events or aesthetically by plan or physical development and designated as historic by city council. A district may also comprise individual elements separated geographically but linked by association or history.

Historic site or site: A single site, either improved or unimproved, which has been designated by city council as historic, either by itself, or as part of a Historic District.

Notice to the owner: Whenever this article requires that notice be given to an owner, the notice shall be in writing and shall be delivered to the owner personally or sent by certified mail, return receipt requested, to the owner's current address, or if the current address is unknown to the owner's last known address as shown on the tax records for Spartanburg County. By written request the owner may require that notice be sent to an agent designated by the owner.

Minor works: small projects which alter a site but not its visual character and which pursuant to regulations adopted by the board do not require a public hearing before the issuance of a certificate of appropriateness.

Ordinance: The Spartanburg Historic Preservation Ordinance.

Ordinary maintenance or repair: Any change that is not construction, relocation, removal, demolition, or alteration. Example: painting or replacing a portion of a structure using the same material in such a manner so as not to change the exterior architectural appearance.

Structure: Anything constructed or erected, the use of which requires permanent or temporary location on or in the ground; for example, buildings, gazebos, signs, light fixtures, walls, fences, radio and television antennae, satellite dishes (including supporting towers) or other communication devices.

Sec. 15-204. Board of architectural design historic review created.

- (a) There is hereby created the board of architectural design and historic review of the City of Spartanburg (hereafter the "board"), composed of seven (7) members who shall be responsible for administering and enforcing the provisions of this article. The members shall serve without compensation except for reimbursement of authorized expenses attendant to the performance of their duties.
- (b) The members of the board shall be residents of the City of Spartanburg appointed by the city council and shall consist of persons who have demonstrated civic interest, have general knowledge of and interest in history and historic preservation, and are available to prepare for and attend meetings. At least four (4) members shall be citizens who are knowledgeable in one of the following disciplines: archaeology, architecture, landscape architecture, American

history, urban planning, engineering, environmental science, law, banking, or real estate. An historian and a professional architect shall serve at all times. None of the voting members may hold any other public office or position in the city.

- (c) The members of the board shall serve for terms of three (3) years. Initially two (2) members shall be appointed for a term of one (1) year, two (2) members for a term of two (2) years, and three (3) members for a term of three (3) years. If any place on the board becomes vacant due to removal, resignation, or any other cause, the city council shall appoint a replacement within sixty (60) days for the remainder of the unexpired term. No member shall serve for more than two (2) consecutive terms. Former members may be reappointed after the expiration of two (2) years.
- (d) The board shall elect from its membership a chair and vice-chair who shall serve for one (1) year or until their successors are elected. A staff member of the department of planning and community development shall serve as secretary but shall not be a voting member of the board. A member of the planning commission of the City of Spartanburg selected by the planning commission shall serve ex officio as a non-voting member of the board.
- (e) The board shall adopt rules of procedure for the orderly conduct of business. A quorum consisting of a majority of the voting membership of the board shall be required for the transaction of business. All decisions or actions by the board shall be by majority vote of the voting membership of the board. Meetings of the board shall be held at regular intervals with such frequency as the board may determine, but in no event less than once every four (4) months.
- (f) The board shall keep minutes of each meeting which shall include the vote of each member on each question and a record of its recommendations, decisions, findings, approvals, and denials, and the reasons for same. Each month a copy of the minutes shall be made available to the members of city council. The board shall submit an annual report to the city council at the end of the city's fiscal year which shall include the number of cases reviewed, the disposition of cases, new designations, attendance records, National Register nominations, and documentation of educational meetings attended by board members.

Sec. 15-205. Powers and duties of board.

The board of architectural design and historical review shall administer and enforce the provisions of this article and shall:

- (a) Maintain a current inventory of historic structures and sites and conduct surveys in an ongoing research effort in the city to identify neighborhoods, areas, sites, structures, and objects in the city that have historic, community, architectural, or aesthetic importance, interest, or value;
- (b) Conduct public hearings and make recommendations to city council in connection with designating historic sites or districts;
- (c) Review applications for and, where appropriate, issue certificates of appropriateness permitting the rehabilitation, alteration, reconstruction, or demolition of structures on or changes to historic sites;
- (d) Advise and assist property owners on the physical and financial aspects of preservation, renovation, rehabilitation, and reuse and on procedures for inclusion on the National Register of Historic Places;
- (e) Review and make recommendations in connection with the nomination of structures or places for designation on the National Historic Register;
- (f) Adopt regulations regarding projects involving minor work and delegating authority for the issuance of certificates of appropriateness for such minor work projects to an appropriate person;
- (g) Hear appeals from decisions of the building official or zoning administrator in matters within the purview of this article;
- (h) Confer recognition on persons who have rendered service to the community in the cause of historic preservation; and
- (i) Educate the public in regard to local history, historical resources in the community, and preservation issues; exhibits, brochures, and special events may be used for this purpose.

Sec. 15-206. Nomination, designation, and expansion of historic sites and historic districts.

(a) *Consideration by the board.*

- (1) The process of designating sites or districts as historic may be initiated by the board as a whole, the city council, any ten residents of the city, or the owner of property to be considered or the owner's authorized agent. Request for designation shall be made on an appropriate form provided by the board.
- (2) If the board determines that an area or site, based on the standards of this article, may be an appropriate candidate for designation as historic, the board may add it to a list of areas and sites considered appropriate for further investigation, deliberation, and possible recommendation to city council. The addition of any site or area to this list shall constitute its designation as a pending historic site, effective when the board reports such designation to the department of planning and community development. The department shall maintain a record in map and list form of all pending historic sites together with the effective date of designation known as the pending list.
- (3) A site or area shall continue to as a pending historic site until either the board determines not to recommend designation as historic, or city council designates or rejects the site or area as historic or until the expiration of one year. A site or area removed from the pending list may be redesignated as a pending historic site after a one-year waiting period from the date of the removal.
- (4) The department shall send a notice to the owner of any site designated as a pending historic site within one business day after the designation.
- (5) If the owner of a site on the pending list has a present need to alter or demolish existing structures or erect new structures, the process through which the site is designated or rejected as historic may be accelerated by using one of two (2) options:
 - a. The owner may treat the site as if it has already been designated as historic and apply for a certificate of appropriateness; or,

- b. The owner may request an accelerated decision. In that event, the site under question will automatically be removed from the list of pending historic sites, unless the board acts within sixty (60) days after the request.

(b) *Nominations to city council.*

- (1) Prior to nominating a site or area as historic, the board shall hold a public hearing to receive comments from interested members of the public concerning the proposed designation.
- (2) Notice of the public hearing shall be given identifying the site or area under consideration, and the time, place, and date of the hearing as follows:
 - a. By posting on the property at least thirty (30) days prior to the hearing; the director of the planning and community development shall determine the appropriate location and number of signs when a district has been proposed as historic;
 - b. By publication in a newspaper of general circulation in the City of Spartanburg no more than fifteen (15) days but at least seven (7) days prior to the hearing; and
 - c. By notice to the owner at least fifteen (15) days prior to the hearing.
- (3) Within thirty (30) days after the hearing, the board shall nominate to city council those sites from the pending list it considers appropriate for designation as a historic site or a part of a historic district. The nomination shall include the board's rationale for the recommendation. A copy of the nomination shall be filed with the department.
- (4) City council may accept the proposed designation by the adoption of an ordinance designating a site or district as historic.
- (5) Within ten (10) days after city council approves a designation, the owner of the site shall be so notified by certified mail. The department shall maintain a record in map and list form of all historic sites and districts. This list shall be called the Spartanburg Historic Register.

- (c) *Specific guidelines.* A site or district may be designated as historic if it:
- (1) Has significant inherent character, interest, or value as a part of the development or heritage of the community, state, or nation;
 - (2) Is the site of a significant historical event;
 - (3) Is associated with a person or persons who contributed significantly to the culture and development of the community, state, or nation;
 - (4) Exemplifies the cultural, political, economic, social, ethnic, or historical heritage of the community;
 - (5) Embodies the distinguishing characteristics of a type, style, period, or specimen in engineering or architecture or contains elements of design, detail, or craftsmanship which represent a significant innovation;
 - (6) Represents an established and familiar visual feature of the neighborhood or community; or
 - (7) Has yielded or is likely to yield information important in pre-history or history.

Sec. 15-207. Certificates of appropriateness.

- (a) *General.* A certificate of appropriateness (or "certificate") shall be required for all alteration, construction, demolition, or removal requiring a building or demolition permit by the inspections department or for any alteration, construction, demolition, relocation, or removal not requiring a building or demolition permit which changes the exterior architectural appearance of a site on the pending list or on the Spartanburg Historic Register. The inspections department shall not issue a building or demolition permit for such work until a certificate has been issued by the board. An application form and a form for the certificate shall be created for the board's use. The certificate shall be signed by either the chair or vice-chair of the board. The certificate shall expire after six (6) months if the work is not commenced and diligently pursued within that time. The building inspector shall from time to time inspect the construction and report any non-conformity to the board.
- (b) *Exceptions.* Interior modifications, alterations to exterior features not visible from a public street, and ordinary

maintenance and repairs are exempted from this article and need not be approved by the board.

(c) *Standards.*

- (1) In reviewing applications for certificates of appropriateness, the board shall base its decisions upon the standards in this article and shall make no requirements other than for the purpose of preventing construction or alterations which are not in harmony with the prevailing character of the historic district or historic site.
- (2) In reviewing applications for new construction or alteration, the board shall consider the U.S. Secretary of the Interior's Standards for Rehabilitation and the following criteria:
 - a. The character and appropriateness of the design;
 - b. The scale of the buildings;
 - c. The texture and materials;
 - d. The relationship of such elements to similar features of structures in the immediate surroundings;
 - e. If the property is in an Historic District, the extent to which the alteration or construction would be harmonious with the Historic District.
- (3) Upon completion of a historical survey of the buildings, structures, and sites in the City of Spartanburg, the board may adopt guidelines specific to a particular site or district.

(d) *Procedures.*

- (1) The application for a Certificate shall be signed by the owner or authorized agent of the site and shall be delivered to the Department at least fifteen (15) days before a public hearing.
- (2) All applications for a certificate of appropriateness shall be reviewed at a public hearing held by the board, except for minor work projects. At least ten (10) days' notice of the time and place of the hearing shall be given in a newspaper of general circulation in the City of Spartanburg. In addition, a sign shall be

posted on the property within three (3) working days of receipt of the application and written notice by certified mail return receipt requested to all abutting property owners of record advising them of the nature of the proposed alterations and the date, time and place of the hearing.

- (3) Except as otherwise provided herein, the board shall rule on any application for a certificate of appropriateness within thirty (30) business days after the application is received as follows:
 - a. If an application is approved, the board shall issue a certificate of the owner;
 - b. If an application is denied, notice of such denial and the reasons therefor shall be given by notice to the owner and to the building inspector;
 - c. The board may determine that the purposes of this article will best be served by postponing final action on the application for a period not to exceed seventy-five (75) days from the date of the application. If action is postponed, written notice to the owner of such postponement citing reasons for the postponement shall be given within seven (7) days after the hearing;
 - d. If the department does not receive a response to an application within thirty (30) days after the hearing before the board, it shall proceed as if the board had granted the certificate.
- (4) Applications for a certificate shall be accompanied by one or more of the following as appropriate.
 - a. Drawings, including plans and exterior elevations, drawn to scale, with sufficient detail to show the exterior architectural appearance of the structure;
 - b. Specifications or other information describing proposed materials and textures; inclusion of samples and materials may be required by the board;
 - c. Site plan or layout showing all improvements affecting appearances such as walls, walks, terraces, accessory buildings, signs, lights, plantings, and other elements;

- d. Photographs of the site location, showing contiguous properties and streetscapes.
- (5) Prior to the preparation of working drawings and specifications or calling for proposals or bids from contractors, prospective developers, owners, or their agents may prepare preliminary scale drawings and outline specifications and overall dimensions (height, width, length, and a comparison with all adjacent structures) for review and discussion with a sub-committee of the board composed of two (2) members of the board and a representative from the Spartanburg Department. This review meeting is at the option of the owner, and its purpose shall be to acquaint the owner or agent with standards of appropriateness of design that are required for the proposed construction. The request for such a meeting shall be made through the Spartanburg Department.
- (6) If, in accordance with criteria established by the board, a proposed alteration involves only minor work, the owner (or agent) shall meet with the person or persons designated by the board, and if it is determined that the scope of the proposed project will not impair the historical character of the site, a certificate shall be issued without a public hearing. The applicant shall provide such data as is reasonably required to make a decision.

Sec. 15-208. Economic hardship.

When applying for a certificate of appropriateness, the owner may request the board to consider any economic hardship affecting the request.

- (a) Before making a decision on the request, the board may solicit expert testimony or required that the applicant submit any information relevant to the decision such as:
 - (1) Estimates of the cost of the proposed alteration, demolition, or removal, and an estimate of any additional cost that would be incurred to comply with the requirements for the issuance of a certificate;
 - (2) A report from a licensed engineer or architect with experience in rehabilitation as to the structural soundness of any structures on the Site and their suitability for rehabilitation;

- (3) Estimated market value of the site under the following conditions: in its current condition; after any changes recommended by the board; and, in case of a proposed demolition, after renovation of the existing structure for continued use;
 - (4) Amount paid for the property, the date of purchase, and the party from whom purchased, including a description of the relationship, if any, between the owner of record or application and the person from whom the property was purchased, and any terms of financing between the seller and the buyer;
 - (5) In the case of a proposed demolition, an estimate from an architect, developer, real estate consultant, appraiser, or other real estate professional experienced in rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing structure on the site;
 - (6) If the site is income producing, the annual gross income for the previous two (2) years, itemized operating and maintenance expenses for the previous two (2) years, and any depreciation, deduction, and annual cash flow before and after debt service, if any, during the same period;
 - (7) Any other information considered necessary by the board to reach a determination as to whether the site yields or may yield a reasonable return to the owner.
- (b) After the hearing, the board shall review all of the evidence and determine within thirty (30) days whether the denial of a certificate will deprive the owner of reasonable use of or economic return from the site. If the board determines that economic hardship has not been proven by the owner, the application for a certificate shall be denied. If the board determines that unreasonable economic hardship will occur to the owner, the board may delay its decision for ninety (90) days in order to investigate and make recommendations regarding alternatives. If at the end of the ninety-day period the board has found that, without approval of the certificate, an unreasonable economic hardship still will occur, then the board shall issue a certificate.
- (c) If demolition or removal is requested the board may delay the granting the certificate for a period of up to one hundred eighty (180) days from the time of the filing of the application after a finding by the board that the structure is of exceptional importance to the people of the City of

Spartanburg. During such postponement, the board shall take steps to ascertain what can be done to preserve the structure, including but not limited to consultation with civic groups, interested citizens, and public boards and agencies. If during the postponement period the board has not been able to determine an adequate alternative to demolition, the certificate shall be granted.

Sec. 15-209. Removal of historic designation.

Any site or district previously designated as historic under the provisions of this article may be removed from the Spartanburg Historic Register. The process of removing sites or districts from the historic register may be initiated by the board as a whole or by the city council.

(a) Consideration by the board.

- (1) Prior to making any recommendation that a site or district be removed from the historic register, the board shall hold a public hearing to receive comments from interested members of the public concerning the proposed removal.
- (2) Notice of the public hearing shall be given identifying the site or area under consideration, and the time, place, and date of the hearing as follows:
 - a. By posting on the property at least thirty (30) days prior to the hearing; the director of planning and community development shall determine the appropriate location and number of signs when a district has been proposed for removal;
 - b. By publication in a newspaper of general circulation in the City of Spartanburg no more than fifteen (15) days but at least seven (7) days prior to the hearing; and
 - c. By giving notice to the owner at least fifteen (15) days prior to the hearing.
- (3) Within thirty (30) days after the hearing, the board shall submit its recommendation to city council together with the board's rationale.
- (4) City council may remove the district or site from the historic register by adopting an ordinance.

- (5) Upon the adoption of such an ordinance, the regulations of this article shall no longer apply to the designated district or site and the district or site shall be removed from the Spartanburg Historic Register. Within ten (10) days after final city council action, notice to the owner shall be given.

Sec. 15-210. Maintenance requirements.

- (a) Structures on sites designated as historic shall be maintained to meet all minimum requirements of the housing code, the Standard Building Code, and any other regulatory codes.
- (b) If the board discovers that any site subject to the jurisdiction of this article is being allowed to deteriorate due to neglect, the board shall encourage the owner of the site to make sufficient repairs to arrest the deterioration, thereby maintaining appearances and protecting property values.
- (c) The board on its own initiative may petition the city building official to proceed under the regulatory codes of the city to require the correction of defects or repairs to any structure, so that such structure shall be preserved or protected in accordance with the purposes of this article.
- (d) Nothing in this article shall be construed to prevent any measures of construction, alteration, or demolition necessary to correct or abate the unsafe or dangerous condition of any structure designated as historic; provided, however, that only such work as is reasonably necessary to correct the unsafe or dangerous condition may be performed without a certificate of appropriateness.

Sec. 15-211. Effect on municipal and public utilities.

All city departments and public utility companies shall be required to obtain approval from the Board in accordance with this article prior to widening or constructing streets or initiating any changes with the historic districts with regard to the character of street paving, sidewalks, parkways, trees, utility installations, lighting, walls, fences, structures, and buildings on property or easements owned or franchised by the City of Spartanburg or public utility companies.

Sec. 15-212. Relationship of Historic Preservation Ordinance to Zoning Ordinance.

In all zoning districts lying within the boundaries of a historic district or site, the regulations for both the zoning district and this article shall apply. Whenever there is conflict between the regulations of the Zoning Ordinance and the regulations of this article, the more restrictive shall apply.

Sec. 15-213. Violations and penalties.

Any person violating the provisions of this article shall be guilty of a misdemeanor and, upon conviction, punished in accordance with Section 1-11 of the Code of the City of Spartanburg, 1988.

Sec. 15-214. Enforcement.

If any work is being done or is in progress for which a certificate of appropriateness is required and no certificate has been issued, the building inspector shall issue a cease and desist order notifying the violator or by personal delivery or certified mail, return receipt requested, that the work must be stopped immediately until a certificate of appropriateness has been issued. If necessary, the board may petition for injunctive relief in the Court of Common Pleas to enforce the provisions of this article.

Sec. 15-215. Appeals.

- (a) *Appeals to the board.* Appeals to the board may be taken by any person aggrieved pursuant to the following procedure.
 - (1) Within ten (10) days after notice of the decision, a notice of appeal, specifying the grounds therefor, shall be filed with the officer from whom the appeal is taken and with the board. The officer from whom the appeal is taken shall transmit all papers constituting the record upon which the action appealed was taken.
 - (2) An appeal stays all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken, after the notice of appeal is filed, certifies to the board that by reason of facts stated in the certificate, a stay would in the officer's opinion, cause imminent peril to life and property. In that case, proceedings may be stayed only by a restraining order granted by the board or by a court of record.

- (3) The board shall fix a reasonable time for the hearing of the appeal and give public notice of it, as well as notice to the parties in interest. The board shall decide the appeal within a reasonable time. At the hearing any party may appear in person or by agent or by attorney.
- (b) *Appeals to the Court of Common Pleas.* Any person having a substantial interest in a decision of the Board may appeal such decision to the Court of Common Pleas by filing a notice of appeal with the Clerk of the Court of Common Pleas within thirty (30) days after notice of the decision pursuant to South Carolina Code 6-29-900 et seq.

Sec. 15-216. Severability.

If any section, subsection, sentence, clause, or phrase of this article is, for any reason, declared invalid, such decision shall not affect the remaining portions of this article.