

CHAPTER 16. HISTORIC PRESERVATION DISTRICTS
PART I. GENERAL PROVISIONS

§731. Purpose

The purpose of this Chapter is to promote the educational, cultural, economic and general welfare of the public through the preservation and protection of buildings, sites, monuments, structures and areas of historic interest or importance through their protection, maintenance and development as historic landmarks and their recognition as such in the history and traditions of the state and nation; to establish and improve property values, and to foster the economic development of the areas affected.

Acts 1970, No. 147, §1. Amended by Acts 1975, No. 804, §1.

§732. Authorization for historic district commissions

Any municipality, incorporated town, lake commission, parish, parish council or similar governmental unit, which shall be designated as a governmental unit hereinafter, may establish within its borders an historic preservation district commission to promote the educational, cultural, economic and general welfare of the public and to take such action by vote of its governing body, that is, the mayor and city council, commissioners, mayor and board of aldermen, city-parish council, or police jury, as the case may be. Said governing body may make such appropriations as are necessary for the purpose of carrying out the provisions of this Chapter.

Acts 1970, No. 147, §2. Amended by Acts 1975, No. 804, §2.

§733. Historic preservation study committee

Prior to the establishment of an historic preservation district commission, the following steps shall be taken:

(1) The governing body or authority of such governmental unit, be it municipality, incorporated town, parish, parish-council, or similar governmental unit, which shall hereinafter be called the governing body, may appoint an historic preservation study committee for the purpose of making an investigation of any proposed historic preservation district. Said study committee shall consist of from three to seven members appointed by the chief executive official of said governmental unit, by and with the advice and consent of the majority of the governing body as a whole. The members of said study committee shall be electors of the said governmental unit, of the full age of majority, and they shall be chosen, as far as possible, from historical societies, archaeological associations, preservation groups, architectural associations, cultural organizations and educational groups as may exist therein.

(2) The historic preservation study committee shall, after investigation, render to the planning or zoning agency or commission serving the governmental unit, if there be such an agency or commission, a report on the historic significance of the buildings, structures, sites, monuments, areas and landmarks to be governed by the proposed historic preservation district and shall designate the buildings, structures, sites, monuments, areas and landmarks to be regulated by said commission, including suggestions for a proposed ordinance or law designed to implement and carry out the

recommendations of said committee. In the absence of such a planning or zoning agency or commission serving the governmental unit said report shall be made to the governing body.

NOTE: TEXT OF PARAGRAPH (3) AS AMENDED BY ACTS 1975, NO. 592, §1, EFF. AUG. 1, 1975:

(3) A copy of said report and accompanying documents shall be filed with the State Art, Historical, and Cultural Preservation Agency.

NOTE: TEXT OF PARAGRAPH (3) AS AMENDED BY ACTS 1975, NO. 804, §3:

(3) A copy of said report and accompanying documents shall be filed with the Louisiana Preservation and Cultural Commission and the Louisiana Art Commission for their consideration and to obtain their advice.

(4)(a) In the event that any museum exists within the unit, a copy of the report and recommendation of the historic preservation study committee shall be filed with it for its consideration and to obtain its advice.

(b) In the event that a chapter or unit of the American Institute of Architects or similar responsible organization of architects exists within the governmental unit, a copy shall be furnished to it for its consideration and to obtain its advice.

(c) In the event that a landmark society exists within the governmental unit, then a copy shall be furnished to it for its consideration and to obtain its advice.

(d) In the event any individual, agency, or organization demonstrates an interest in participating in the review of the committee's report then copy of said report shall be made available to said party for its consideration and in order to obtain its advice.

(5) A public hearing shall be held by the planning or zoning agency or commission, if one exists, serving the governmental unit, at which hearing the report and recommendations of this historic preservation study committee shall be presented and an opportunity afforded the public to consider them. In the absence of said agency or commission the public hearing shall be held by the historic preservation study committee. Written notice of the purpose, time and place of such hearing shall be published in the official journal, if any exists, or in any newspaper of general circulation in the area served by the governmental unit at least once and at least a minimum of seven days before said hearing; and such written notice may be affixed to the bulletin board, front door or other prominent place at or near the main entrance of the building, hall or room where meetings of the governing body are usually held.

(6) The planning or zoning agency or commission if one exists in the governmental unit, shall submit a final written report to the governing body within sixty days after the public hearing and said report and recommendation shall contain (a) a complete description of the area (b) a map or sketch showing the boundaries of the area to be included within any proposed historic preservation district, sites, monuments, areas and landmarks appropriate for landmark and (c) suggestions for a proposed ordinance or law designed to implement and carry out the recommendation of said agency or commission and the provisions of this Chapter. If no planning or zoning agency exists within the governmental unit, the historic preservation study committee shall submit said written report to the governing body within sixty days after the public hearings.

(7) The report and recommendations of the historic preservation district study committee or the planning or zoning commission or agency, as the case may be, shall be reviewed in full at an open meeting of the governing body of the governmental unit involved, within a reasonable time after the rendition of said report, but in any event, not more than ninety days thereafter.

Acts 1970, No. 147, §3. Amended by Acts 1975, No. 592, §1, eff. Aug. 1, 1975; Acts 1975, No. 804, §3.

§734. Consideration of study committee report

The governing body, by ordinance, resolution or similar act, may adopt or reject the recommendation of the historic preservation study committee or of the planning or zoning committee or agency or it may refer the matter back to said study committee or said commission or agency, as the case may be, for further study; or said governing body may make such amendments or revisions as it may deem advisable, including the authority to require reasonable financial and administrative conditions in consideration of the overall public good as prerequisites for the creation of any historic district commission. However, any final action taken by said governing body shall be published in the manner usually provided for the official publication of its acts but, in any event, publications shall be made at least once either in such official journal or any other newspaper having general circulation within the governmental unit.

Acts 1970, No. 147, §4. Amended by Acts 1975, No. 804, §4.

§735. Termination of study committee

The historic preservation study committee shall cease to exist following the completion, presentation or filing of its report and recommendations with the governing body of the governmental unit or filing of its report and recommendations with the planning or zoning agency or commission if one exists or after having considered and acted finally on any suggested changes or amendments.

Acts 1970, No. 147, §5. Amended by Acts 1975, No. 804, §5.

§736. Creation of historic district commissions

After final consideration of the report and recommendations of the planning or zoning agency or commission or of the historic preservation study committee, whichever the case may be, and upon determining that creation and establishment of a historic preservation district is in the public interest, the governing body may pass an ordinance or law creating and establishing a historic preservation district. Prior to the enactment of any regulations authorized herein, the planning or zoning agency or commission, or the historic preservation study committee, whichever the case may be, shall submit suggestions to the governing body for a proposed ordinance or law, designed to implement and carry out the recommendations of said agency, commission, or committee and the provisions of the Chapter. The governing body may then review said suggestions, and upon determining that the adoption of said suggestions or alternatives is

desirable, the governing body may have prepared and may pass an ordinance, law, or resolution, whichever may be applicable, enacting appropriate regulations in accordance with the provisions of this Chapter, and in accordance with the following guidelines, terms, and conditions:

(1) The chief executive official of the governmental unit shall appoint an historic preservation district commission consisting of not more than fifteen electors as designated in the ordinance, residing in the area served by the governmental unit, for four year terms each except that the terms of members of the first commission shall be staggered as set forth in the ordinance; and both they and their successors shall serve for four year terms thereafter. In making appointments, preference may be given as far as possible to members of historic, cultural, educational, archaeological, architectural, artistic and preservation organizations. Said appointments shall be subject to approval by a majority vote of the governing body. Only one historic preservation district commission may be established by a governmental unit except as prescribed under R.S. 25:745.

(2) A commission shall elect annually from its own number a chairman, vice-chairman and any other officers it deems appropriate. All members shall serve without compensation. Reasonable rules and regulations not inconsistent with this Chapter may be adopted.

(3) Subject to appropriations by the governing body, services of compensated clerical and technical assistants may be retained. Donations, trusts, contributions and gifts may be accepted by the historic preservation district provided that they are used to further the purposes for which it exists.

(4) Vacancies shall be filled by appointment in the same manner as the original appointments and any member may be appointed for another term or terms.

(5) Any member may be recalled at any time by the governing body for gross inefficiency, fraud or study neglect, but only after an open hearing and upon notice specifying the complaint involved.

(6) Notwithstanding any other provision of law to the contrary, the members of the Donaldsonville Historic District Commission shall be residents and electors of the district.

Acts 1970, No. 147, §6. Amended by Acts 1975, No. 804, §6; Acts 2001, No. 358, §1.

§737. Powers of historic district commissions

A. No private building, structure, or edifice, including fences, boundary walls, signs, light fixtures, steps and paving or other appurtenant fixtures shall be erected, altered, restored, moved or demolished within an historic preservation district until after an application for a certificate of appropriateness as to exterior architectural features has been submitted to and approved by an historic preservation district commission, except as otherwise provided by the governing body in the ordinance establishing such commission or as provided by rules, regulations, policies, procedures and standards adopted by said

commission. Similarly, if earthworks of historical or archaeological importance exists in the historic district there shall be no excavating or moving of earth, rock or subsoil without a certificate of appropriateness. For the purposes of this Chapter "exterior architectural features" shall include but need not be limited to the color, architectural style, general design and general arrangement of the exterior of a structure, including the kind and texture of the building material, the type and style of all roofs, windows, doors, light fixtures, signs and other appurtenant fixtures. The style, scale, material, size and location of outdoor advertising signs and bill posters within an historic preservation district shall also be under the control of such commission.

B. An historic preservation district commission shall not consider interior arrangement or use but shall consider the relationship of the exterior of the buildings concerned with all others in the historic preservation district as to avoid incongruity and promote harmony therewith.

C. An historic preservation district commission shall adhere to and seek compatibility of structures in the historic district in terms of size, texture, scale and site plan and said commission shall set forth and define guidelines prior to any exercise of its authority.

D. Nothing in this Chapter shall be construed to prevent ordinary maintenance or repairs which do not involve a change of design, material, or of the outward appearance, thereof; nor to prevent the construction, reconstruction, alteration or demolition of any such feature which is required by the public safety because of an unsafe or dangerous condition. The requirements of this Chapter shall not apply to work which has begun or for which a permit has been issued prior to the establishment of the historic preservation district.

E. No review, approval, disapproval or recommendation shall be made by an historic preservation district commission until said commission has adopted rules, regulations, policies, procedures and standards following a public hearing.

Acts 1970, No. 147, §7. Amended by Acts 1975, No. 804, §7.

§738. Certificates of appropriateness

A. The historic preservation district shall hold a public hearing upon each application for a certificate of appropriateness affecting property under its control except in those instances where the commission has determined that the application for a certificate of appropriateness is not a substantive change and further that the commission has determined the certificate complies with standards adopted by said commission. Notice of the time and place of said hearing shall be given by publication in the form of a legal advertisement appearing in the official journal of the governmental unit or in a newspaper having general circulation in the area served by the governmental unit, provided it has one, at least seven days before such hearing, and by the posting of such notice on or near the main entrance of any hall or room where the commission usually meets.

B. Within not more than forty-five days after the filing of an application the commission shall pass upon it, giving consideration to the factors set forth in R.S. 25:737(A) and (B), and shall give written notice of its decision to the applicant setting forth the reasons therefor. Evidence of approval shall be by certificate of appropriateness issued by the commission, and whatever its decision, notice in writing shall be given to the applicant. The commission shall keep a record of all applications for certificates of appropriateness and of all its doings under this Chapter.

C. No building permit shall be authorized by the governing body which affects a site or structure in the historic preservation district without a certificate of appropriateness except as otherwise permitted by the governing authority.

D. The commission shall have the right to make such recommendations for changes and modifications as it may deem to be necessary in order to enable the applicant to meet with its requirements.

Acts 1970, No. 147, §8. Amended by Acts 1975, No. 804, §8.

§739. Hardship variances

Where, by reason of topographical conditions, irregularly shaped lots, or because of unusual circumstances applicable solely to the particular applicant, strict enforcement of the provisions of this Chapter would result in serious undue hardship particularly affecting said applicant, then the commission, in passing upon his application shall have the power to vary or modify adherence to this Chapter; provided always that its requirements insure harmony with the general purposes hereof, and will not adversely affect an historic preservation district as a whole or any designated landmark.

Acts 1970, No. 147, §9. Amended by Acts 1975, No. 804, §9.

§740. Commission enforcement powers

A. A historic preservation district commission shall have the power to institute suit in any court of competent jurisdiction, to prevent any unlawful action in violation of the provisions of this Chapter or of any of the rules and regulations adopted by the commission in conformity with it.

B. Any owner, agent, lessee, or other person acting for or in conjunction with him, who shall violate the ordinance or law or rules, regulations, or decisions of a commission, shall be fined not less than fifty dollars nor more than one hundred dollars for each violation, except as hereinafter provided. Any owner, agent, lessee, or other person acting for or in conjunction with him, who shall demolish a structure or edifice without having received an appropriate certificate of appropriateness may be fined a single fine of not less than one thousand dollars nor more than ten thousand dollars. For violations other than demolition without an appropriate certificate of appropriateness, each day that a violation continues shall constitute a separate offense.

Acts 1970, No. 147, §10. Amended by Acts 1975, No. 804, §10; Acts 1979, No. 223, §1, eff. July 8, 1979.

§741. Appeals

A. Any person or persons aggrieved by any decision, act, or proceeding of an historic preservation district shall have a right to apply in writing to the governing body of the governmental unit for reversal or modification thereof and the chief executive official, or presiding officer of the governing body, shall have the right to stay all further action until the governing body may affirm a decision of the commission by majority vote of all its members. Any such appeal shall be taken in ten days from the date of decision and the governing body may consider said appeal at its next general or special meeting, but in any event, not more than forty-five days thereafter. The governing body shall have the right to reverse, change, or modify any decision of the commission only by a majority vote of all its members.

B. Any person or persons aggrieved by any decision of the governing body affecting said historic preservation district shall have the right to file a civil suit within thirty days from date of decision in a court of competent jurisdiction under the usual rules of procedure governing same, with the right to stay orders and injunctive relief provided the situation warrants it.

Acts 1970, No. 147, §11. Amended by Acts 1975, No. 804, §11; Acts 1979, No. 223, §1, eff. July 8, 1979.

§742. Applicability of historic district commission powers

It is the intent and purpose of this Chapter that the regulatory powers conferred by it on an historic preservation district commission, created under its authority, shall apply to all private property, in the area controlled by it, including all buildings, structures, areas, sites, and their adjuncts and appurtenances, insofar as they constitute part of the entirety or tout ensemble of the historic section. Any governmental agency of the state or local government, other than the governing body, having a responsibility for any building, structure, area, site, public way and their adjuncts and appurtenances within the historic preservation site shall seek the advice of the historic district commission prior to the initiation of any substantive change, modification, renovation, restoration or construction.

Acts 1970, No. 147, §12. Amended by Acts 1975, No. 804, §12.

§743. Additional commission powers

Any historic district that may be created or established under the provisions of this Act may be empowered by the governing body to perform the following:

Make periodic reports to the governing body; provide information to property owners and others involving the preservation of the district; suggest pertinent legislation; initiate planning and zoning proposals; cooperate with other regulatory agencies and civic organizations and groups interested in historic preservation; review all applications for zoning variances and conditional uses where they affect the historic districts; render advice with reference to sidewalk construction and repair, tree planting, street improvements, and also the renovation, restoration or construction of public buildings;

furnish information and assistance in connection with any capital improvement program involving the historic area; consult with the National Trust for Historic Preservation and other expert groups; administer such financial mechanisms as the local governing body may establish for the welfare of the governmental unit within an historic district.

Acts 1970, No. 147, §13. Amended by Acts 1975, No. 804, §13.

§744. Authority of historic district commissions

An historic preservation district commission may be empowered by the local governing body to name or designate any site, location, structure or monument within the area served by the governmental unit as worthy of preservation whether within or outside the confines of an historic district and to exercise all other powers and functions of a landmarks commission, except that no historic district commission shall be empowered to act in a landmark capacity where its jurisdiction overlaps the authority of an existing landmarks commission pursuant to this Act.

Acts 1970, No. 147, §14. Amended by Acts 1975, No. 804, §14.

§745. Exemptions

A.(1) None of the provisions of this Chapter, except the provisions of R.S. 25:746, shall apply to or affect in any way the Vieux Carre Section or Vieux Carre Commission of the city of New Orleans, nor shall the limitation of one historic preservation district commission as set forth in R.S. 25:736(1) apply in governmental units with a population in excess of one hundred fifty thousand persons.

(2) None of the provisions of this Chapter shall apply to or affect in any way any property or collection of properties under common ownership having any lot line on the northerly side of St. Charles Avenue between Calhoun Street and Law Road, or on the southerly side of St. Charles Avenue between Broadway Street and Lowerline Street in the city of New Orleans, Louisiana.

(3) None of the provisions of this Chapter shall apply to or affect any property, site, or area upon lots designated RS1, RS2, RD1, or RD2 under the Comprehensive Zoning Ordinance of the city of New Orleans in that area of the city of New Orleans bounded by the river side of Carondelet Street, the uptown side of Josephine Street, the lake side of Magazine Street, and the uptown side of Louisiana Avenue, except that all properties having a lot line on St. Charles Avenue may be regulated under the terms of this Chapter and except also that all construction of new structures and demolitions of existing structures may be regulated under the terms of this Chapter.

B. Notwithstanding the provisions of R.S. 25:736(1), in parishes with a population of from sixty thousand to one hundred fifty thousand according to the latest federal decennial census, no more than three historic preservation district commissions and three landmarks commissions, or three commissions combining both the district and landmarks functions, shall be established. Any such commission shall be composed of seven members, a majority of whom shall be residents and electors of each such historic preservation district, landmarks district, or combination thereof, as may be created.

Acts 1983, No. 191, §1. Acts 1984, No. 440, §1; Acts 2001, No. 1073, §1; Acts 2001, No. 1228, §1, eff. July 9, 2001; Acts 2012, No. 697, §2.

§746. Review by governing body or authority and by courts of actions of constitutionally created historic preservation district commissions; right to compel

A. This Section is for the purpose of protecting and promoting the public welfare, protecting and preserving the cultural and historical heritage of the state, and protecting the public trust and enforcing and fulfilling the mandates of the Constitution of Louisiana related to any constitutionally created historic preservation district commission.

B. The following definitions shall apply in this Section:

(1) "Business agent or lessee" means an agent or lessee of an owner of a private or semi-public building, or other private or semi-public immovable property located, in whole or in part, within a historic preservation district, who is operating a business in, or has control of, the building or immovable property, but shall not include a residential lessee who merely resides or is domiciled in the building.

(2) "Commission" means (a) each historic preservation commission authorized, created, established, and/or existing under the Louisiana Constitution of 1921 for which constitutional authority is retained by the Louisiana Constitution of 1974 and (b) each historic preservation commission which is created or established, now or hereafter, in the Louisiana Constitution of 1974.

(3) "District" means a designated or defined area of a municipality placed under the authority of a commission for purposes of historic preservation.

(4) "Essential assets" means (a) the quaint and distinctive character of a district, (b) the value to the community of the buildings having architectural or historical worth in a district, and (c) the public trust placed in a commission, or in a governing body or authority, by the constitution for the preservation of (a) and (b).

(5) "Essential duties" means to (a) preserve a district for the benefit of the people of the district, the municipality, and this state, (b) prevent the quaint and distinctive character of a district from being injuriously affected, (c) protect the value to the community of the buildings having architectural and historical worth from being impaired, and (d) ensure that a reasonable degree of control is being exercised over the architecture of private and semi-public buildings erected on or abutting the public streets of a district.

(6) "Person" means a commission, a governing body or authority of a district, an applicant for a permit from a commission, any incorporated or unincorporated neighborhood or residential group or association which has members residing or domiciled in the district, any landowner association which has members owning, leasing, or using immovable property in the district, or any business association which has members operating businesses in the district, and any incorporated or unincorporated historical preservation association having members domiciled in this state.

(7) "Quaint and distinctive character of a historic preservation district" includes but is not limited to the historic or traditional ambiance of the district, the antiquity of the district, the historic "tout ensemble" of the district, the old-fashioned or traditional neighborhood quality of the district, and the lighting and traditional architectural styles and details of the district.

C.(1) Any person aggrieved by a decision, recommendation, act, failure to act, or proceeding of a commission or an agency of the governing body or authority which has permitting, regulatory, or enforcement authority within a district, which decision, recommendation, act, failure to act, or proceeding is inconsistent with the public trust placed in, or the essential duties or purpose of, the commission, or the governing body or authority, by the constitution for the preservation of essential assets of the district, may apply in writing to the governing body or authority for a reversal or modification of the decision, recommendation, act, or proceeding, or for an order to take action or a specific action, in order to comply with the purpose and essential duties of the commission or the governing body or authority. Such person may also have a stay or stop order issued while the application is pending.

(2) An application or appeal under Paragraph (1) of this Subsection shall be filed within thirty days of the commission, or an agency of the governing body or authority, notifying the applicant in writing or, if not notified in writing, within thirty days of the applicant's actual knowledge of, but no later than one hundred eighty days of, the decision, recommendation, proceeding, act, or failure to act.

(3) The governing body or authority shall consider the application or appeal filed under Paragraph (1) of this Subsection within forty-five days of its filing and shall thereafter render a written decision setting forth its reasons within a reasonable period of time. In reaching its decision, the governing body or authority shall consider paramount the purpose and essential duties of the commission, or the governing body or authority.

(4) In a matter filed under Paragraph (1) of this Subsection, if it appears from the specific facts alleged in the application and verified by a supporting affidavit that immediate and irreparable injury, loss, damage, or impairment will result to an essential asset of the district, the governing body or authority shall order or grant a stay or stop order. Security shall not be required.

D.(1) Any person aggrieved by an action or a decision of a governing body or authority affecting a district for the reason that an action or decision of the governing body or authority is inconsistent with the public trust placed in, or the essential duties and purpose of, the commission, or the governing body or authority, by the constitution for the preservation of essential assets of the district, may intervene in an action, or file suit within thirty days from the date of the action or decision in a district court in the parish in which the district is located to seek reversal or modification of the decision, injunctive relief, writ of mandamus, or any other relief provided by law or equity, in order to seek compliance with the purpose and essential duties of the commission, or the governing body or authority.

(2) A suit filed under Paragraph (1) of this Subsection shall be tried as a summary proceeding. The court shall take proof as in ordinary cases. In actions for injunctive relief, the court shall also take verified pleadings and supporting affidavits.

(3) In an action under Paragraph (1) of this Subsection, the court shall consider paramount the purpose and essential duties of the commission and its governing body or authority under the constitution, and the court shall liberally construe the purpose and essential duties in favor of preserving the quaint and distinctive character of the district.

(4) It is not a defense to an action under Paragraph (1) of this Subsection that other similar non-conforming alterations in violation of historic preservation rules, regulations, laws, or the constitution exist or have been allowed to exist by the commission, or its governing body or authority or one of its agencies.

(5) In an action under Paragraph (1) of this Subsection, if it appears from the specific facts alleged by verified petition or by supporting affidavit that immediate and irreparable injury, loss, damage, or impairment will result to an essential asset of the district, the court shall grant a stay, or issue a temporary restraining order or preliminary injunction. Security shall not be required.

E.(1) Notwithstanding Subsection C of this Section, while pursuing or attempting to pursue relief under Paragraph (1) of that Subsection, any person aggrieved by a decision of or the issuance of a permit by a commission, or an agency of the governing body or authority which has permitting, regulatory or enforcement authority within a district, which decision or permit is inconsistent with the public trust placed in, or the essential duties or purpose of, the commission, or the governing body or authority, by the constitution for the preservation of essential assets of the district, shall have an immediate right to seek injunctive relief in a district court in the parish in which the district is located in order to prevent immediate and irreparable injury, loss, damage, or impairment to an essential asset of the district.

(2) In an action under Paragraph (1) of this Subsection, the court shall consider paramount the essential purpose and duties of the commission and its governing body or authority under the constitution, and the court shall liberally construe the purpose and duties therein in favor of preserving the quaint and distinctive character of the district.

(3) It is not a defense to an action under Paragraph (1) of this Subsection that other similar non-conforming alterations in violation of historic preservation rules, regulations, laws, or the constitution exist or have been allowed to exist by the commission, or its governing body or authority or one of its agencies.

(4) In an action under Paragraph (1) of this Subsection, if it appears from the specific facts alleged by verified petition or by supporting affidavit that immediate and irreparable injury, loss, damage, or impairment will result to an essential asset of the district, the court shall issue a temporary restraining order or preliminary injunction. Security shall not be required.

F.(1) An owner of a private or semi-public building, or other private or semi-public immovable property, located in whole or in part within a district is bound to keep the building and immovable property in repair so that the building or immovable property does not fall into ruin. A building has fallen into ruin when the building is in danger of falling, part of it falling, or needing to be demolished. The danger need not be imminent.

(2) Any person may compel an owner in violation of Paragraph (1) of this Subsection, or, if justice requires, the owner's business lessee or agent who has control of the building or immovable property, to have the building or immovable property reasonably repaired and properly cared for in reasonable compliance with Paragraph (1) of this Subsection. The reasonable repair and proper care of the building or the

immovable property shall be made in compliance with the rules of the commission for the district in which the building or immovable property is located.

G. In all actions under this Section, the supreme court and courts of appeal shall consider paramount the purpose and essential duties of the commission and its governing body or authority under the constitution, and the corresponding duties and limitation of rights of the owner or lessee of a building or immovable property located in whole or in part within the district resulting from or because of its designation. The court shall liberally construe the purpose, duties, and limitation of rights in favor of preserving the quaint and distinctive character of the district.

H. The rights, actions, and rights of action in this Section are in addition and supplemental to any other rights, actions, and rights of action provided by the constitution, law, home rule charter, municipal ordinance, rule, or regulation.

Acts 2001, No. 1228, §1, eff. July 9, 2001.

PART II. HISTORIC PRESERVATION DISTRICTS AND HISTORIC LANDMARKS COMMISSIONS-- PARTICULAR PARISHES

§751. Purposes

A. The purposes of this Part are to promote the educational, cultural, economic, and general welfare of the public through the preservation and protection of buildings, sites, monuments, structures, and areas of historic interest or importance through their protection, maintenance, and development as historic landmarks and their recognition as such in the history and among the traditions of the state and nation; to establish and improve property values; and, to foster the economic development of the areas affected.

B. The legislature of this state has determined that the historical, architectural, and cultural heritage of this state is among the most important environmental assets of this state and furthermore that the rapid social and economic development of contemporary society threatens to destroy the remaining vestiges of this heritage, and it is thus hereby declared to be the public policy and in the public interest of this state to engage in a comprehensive program of historic preservation, undertaken at all levels of the government of this state and its political subdivisions, along with the private sector, to promote the use and conservation of such property for the education, inspiration, pleasure, and enrichment of the citizens of this state.

Acts 1974, No. 273, §1. Amended by Acts 1975, No. 592, §1, eff. Aug. 1, 1975.

§752. Authorization for historic district and landmarks commissions

The governing body of the city of New Orleans and the parishes of Franklin, Tensas, LaSalle, Catahoula, Concordia, and Caldwell, which city and parishes shall be designated as "governmental unit" hereinafter in this Part, may establish within the borders of the city or parish a historic preservation district commission or a landmarks commission or a combination of the two to promote the educational, cultural, economic, and general welfare of the public. The

governing body may make such appropriations as are necessary for the purpose of carrying out the provisions of this Part.

Acts 1974, No. 273, §2; Acts 2011, 1st Ex. Sess., No. 4, §1.

§753. Historic preservation study committee

Prior to the establishment of an historic preservation district or of a landmarks commission, the following steps shall be taken:

(1) The governing body or authority of such governmental unit, be it municipality, incorporated town, parish, parish council, or similar governmental unit, which shall hereinafter be called the "governing body", may appoint an historic preservation study committee for the purpose of making an investigation of any proposed historic preservation district and/or a landmarks commission. Said study committee shall consist of from three to seven members appointed by the chief executive official of said governmental unit, by and with the advice and consent of the majority of the governing body as a whole. The members of said study committee shall be electors of the said governmental unit, of the full age of majority, and they shall be chosen, as far as possible, from any existing historical societies, archaeological associations, preservation groups, architectural associations, cultural organizations and educational groups as may exist therein.

(2) The historic preservation study committee shall, after investigation, render to the planning or zoning agency or commission serving the governmental unit, if there be such an agency or commission, a report on the historic significance of the buildings, structures, sites, monuments, areas and landmarks to be governed by the proposed historic preservation district and/or landmarks commission and shall designate the buildings, structures, sites, monuments, areas and landmarks to be regulated by said commission, including suggestions for a proposed ordinance or law designed to implement and carry out the recommendations of said committee. In the absence of such a planning or zoning agency or commission serving the governmental unit said report shall be made to the governing body.

(3) A copy of said report and accompanying documents shall be filed with the State Art, Historical, and Cultural Preservation Agency.

(4)(a) In the event that any museum exists within the unit a copy of the report and recommendation of the historic preservation study committee shall be filed with it for its consideration and to obtain its advice.

(b) In the event that a chapter or unit of the American Institute of Architects or similar responsible organization of architects exists within the governmental unit, a copy shall be furnished to it for its consideration and to obtain its advice.

(c) In the event that a landmarks society or commission exists within the governmental unit, then a copy shall be furnished to it for its consideration and to obtain its advice.

(d) In the event any individual, agency, or organization demonstrates an interest to participate in the review of the committee's report then copies of said report shall be made available to said parties for its consideration and in order to obtain its advice.

(5) A public hearing shall be held by the planning or zoning agency or commission, if one exists serving the governmental unit, at which hearing the report and recommendations of this historic preservation study committee shall be presented and an opportunity afforded the public to consider them. In the absence of said agency or commission the public hearing shall be held by the historic preservation study committee. Written notice of the purpose, time and place of such public hearing shall be published in the official journal, if any exists, or in any newspaper of general circulation in the area served by the governmental unit at least once and at least a minimum of seven days before said hearing; and such written notice may be affixed to the bulletin board, front door or other prominent place at or near the main entrance of the building, hall or room where meetings of the governing body are usually held.

(6) The planning or zoning agency or commission if one exists in the governmental unit, shall submit a final written report to the governing body within sixty days after the public hearing and said report and recommendation shall contain (a) a complete description of the area; (b) a map or sketch showing the boundaries of the area to be included within any proposed historic preservation district; (c) an indication of the type of buildings, structures, sites, monuments, areas and landmarks appropriate for landmark designation, and (d) suggestions for a proposed ordinance or law designed to implement and carry out the recommendation of said agency or commission and the provisions of the Part. If no planning or zoning agency exists within the governmental unit, the historic preservation study committee shall submit said written report to the governing body within sixty days after the public hearings.

(7) The report and recommendations of the historic preservation district study committee or the planning or zoning commission or agency, as the case may be, shall be reviewed in full at an open meeting of the governing body of the governmental unit involved, within a reasonable time after the rendition of said report, but in any event, not more than ninety days thereafter.

Acts 1974, No. 273, §3. Amended by Acts 1975, No. 592, §1, eff. Aug. 1, 1975.

§754. Consideration of study committee report

The governing body, by ordinance, resolution or similar act, may adopt or reject the recommendation of the historic preservation study committee or of the planning or zoning committee or agency or it may refer the matter back to said study committee or said commission or agency, as the case may be, for further study; or said governing body may make such amendments or revisions as it may deem advisable, including the authority to require reasonable financial and administrative conditions in consideration of the overall public good as prerequisites for the creation of any historic district and/or landmarks commission. However, any final action taken by said governing body shall be published in the manner usually provided for the official publication of its acts but, in any

event, publications shall be made at least once either in such official journal or any other newspaper having general circulation within the governmental unit.

Acts 1974, No. 273, §4.

§755. Termination of study committee

The historic preservation study committee shall cease to exist following the completion, presentation or filing of its report and recommendations with the governing body of the governmental unit or filing of its report and recommendations with the planning or zoning agency or commission if one exists or after having considered and acted finally on any suggested changes or amendments.

Acts 1974, No. 273, §5.

§756. Creation of landmarks and historic district commissions

After final consideration of the report and recommendations of the planning and/or zoning agency or commission or of the historic preservation study committee, whichever the case may be, and upon determining that creation and establishment of a historic preservation district and/or a landmarks commission is in the public interest, the governing body may pass an ordinance or law creating and establishing a historic preservation district and/or landmarks commission. Prior to the enactment of any regulations authorized herein, the planning and/or zoning agency or commission, or the historic preservation study committee, whichever the case may be, shall submit suggestions to the governing body for a proposed ordinance or law, designed to implement and carry out the recommendations of said agency, commission, or committee and the provisions of the Part. The governing body may then review said suggestions, and upon determining that the adoption of said suggestions or alternatives is desirable, the governing body may have prepared and may pass an ordinance, law or resolution, whichever may be applicable, enacting appropriate regulations in accordance with the provisions of this Part, and in accordance with the following guidelines, terms and conditions:

(1) The chief executive official of the governmental unit shall appoint an historic preservation district commission and/or landmarks commission consisting of not more than fifteen electors as designated in the ordinance residing in the area served by the governmental unit, for four year terms each except that the terms of members of the first commission shall be staggered as set forth in the ordinance; and both they and their successors shall serve for four year terms thereafter. In making appointments, preference may be given as far as possible to members of historic, cultural, educational, archaeological, architectural, artistic and preservation organizations. Said appointments shall be subject to approval by a majority vote of the governing body. Only one historic preservation district commission and one landmarks commission or one commission combining both the district and landmark functions may be established by a governmental unit except as prescribed under R.S. 25:767.

(2) A commission shall elect annually from its own number a chairman, vice-chairman and any other officers which it deems appropriate. All members shall serve without compensation. Reasonable rules and regulations not inconsistent with this Part may be adopted.

(3) Subject to appropriations by the governing body, services of compensated clerical and technical assistants may be retained. Donations, trusts, contributions and gifts may be accepted by the historic preservation district or landmarks commission provided that they are used to further the purposes for which it exists.

(4) Vacancies shall be filled by appointment in the same manner as the original appointments and any member may be appointed for another term or terms.

(5) Any member may be recalled at any time by the governing body for gross inefficiency, fraud or studied neglect, but only after an open hearing and upon notice specifying the complaint involved.

Acts 1974, No. 273, §6.

§757. Powers of historic district commissions

A. No private building, structure, or edifice, including fences, boundary walls, signs, light fixtures, steps and paving or other appurtenant fixtures shall be erected, altered, restored, moved or demolished within an historic preservation district until after an application for a certificate of appropriateness as to exterior architectural features has been submitted to and approved by an historic preservation district commission, except as otherwise provided by the governing body in the ordinance establishing such commission or as provided by rules, regulations, policies, procedures and standards adopted by said commission. Similarly, if earthworks of historical or archaeological importance exists in the historic district there shall be no excavating or moving of earth, rock or subsoil without a certificate of appropriateness. For the purposes of this Part "exterior architectural features" shall include but need not be limited to the color, architectural style, general design and general arrangement of the exterior of a structure, including the kind and texture of the building material, the type and style of all roofs, windows, doors, light fixtures, signs and other appurtenant fixtures. The style, scale, material, size and location of outdoor advertising signs and bill posters within an historic preservation district shall also be under the control of such commission.

B. An historic preservation district commission shall not consider interior arrangement or use but shall consider the relationship of the exterior of the buildings concerned with all others in the historic preservation district as to avoid incongruity and promote harmony therewith.

C. An historic preservation district commission shall adhere to and seek compatibility of structures in the historic district in terms of size, texture, scale and site plan and said commission shall set forth and define guidelines prior to any exercise of its authority.

D. Nothing in this Part shall be construed to prevent ordinary maintenance or repairs which do not involve a change of design, material, or of the outward appearance,

thereof; nor to prevent the construction, reconstruction, alteration or demolition of any such feature which is required by the public safety because of an unsafe or dangerous condition. The requirements of this Part shall not apply to work which has begun or for which a permit has been issued prior to the establishment of the historic preservation district.

E. No review, approval, disapproval or recommendation shall be made by an historic preservation district commission until said commission has adopted rules, regulations, policies, procedures and standards following a public hearing.

Acts 1974, No. 273, §7.

§758. Powers of landmarks commissions

A landmarks commission shall not consider interior arrangement or use of a designated building, structure, site, monument, area, or other landmark. Nothing in this Part shall be construed to prevent ordinary maintenance or repairs which do not involve a change of design, material, or of the outward appearance thereof; nor to prevent the construction, reconstruction, alteration or demolition of any such feature which is required by the public safety because of an unsafe or dangerous condition. The requirements of this Part shall not apply to work for which a permit has been issued prior to designation of a landmark property; provided, however, that the commission shall have the authority to prohibit issuance of building or demolition permits affecting the property under consideration for landmark designation, said prohibition to remain in effect for the length of time required by the commission for final action on the proposed designation. No review, approval, disapproval or recommendation shall be made by a landmarks commission until said commission has adopted rules, regulations, policies, procedures and standards following a public hearing. A landmarks commission created under authority of this Part may exercise the following powers:

(1) To name, or designate any site, building, structure, monument, area, or other landmark located within the area served by the governmental unit as historic and worthy of preservation;

(2) To recommend appropriate legislation for the preservation of any building, structure, site, monument, area or other landmark which it has so named or designated;

(3) To make application with the approval of the local governing body for federal funds when appropriate and available;

(4) To review applications for building permits proposing erection, alteration, restoration or moving of any building, structure, site, monument, area or other landmark which it has so named and designated, and to issue or deny certificates of appropriateness accordingly;

(5) To review all applications for demolition permits proposing demolition of all or part of any building, structure, monument, or other landmark which it has so named and designated, and to issue certificates of appropriateness or to deny them for one year;

(6) To work with the owner of landmark property throughout the year following a refusal to issue a certificate of appropriateness pursuant to an application for a demolition permit, and to seek alternative economic uses for the landmark property;

(7) To renew its denial of a certificate of appropriateness for demolition of landmark property for additional one year periods indefinitely thereafter, following a public hearing each time at which the owner of the affected property shall be afforded an opportunity to appear with counsel and to present testimony;

(8) To appoint a landmark area advisory board of three to seven members, all of whom shall reside within a designated landmark area, to act as a neighborhood advisory group to the commission.

A landmarks commission shall not exercise any regulatory powers over designated landmark property located within an historic preservation district.

Acts 1974, No. 273, §8.

§759. Landmarks designation procedure

The following procedure shall be adhered to in designating any building, structure, site, monument, or other landmark as worthy of preservation:

(1) The landmarks commission shall consider for landmark designation any property proposed by motion of any commission member or by the owner of proposed property.

(2) Notice of a proposed designation shall be sent by registered mail to the owner of property proposed for landmark designation, describing the property proposed and announcing a public hearing by the landmarks commission to consider said designation.

(3) The landmarks commission shall also send notice of a proposed designation to all city agencies having previously requested notification of such proceedings; to the landmark area advisory board in whose area the proposed landmark is located, if any; and to other parties customarily informed by the commission of such proceedings.

(4) The landmarks commission shall also cause notice of the proposed designation to be published at least seven days prior to the public hearing in the official journal of the governmental unit and shall post notice of the hearing in the place where the commission meets.

(5) The landmarks commission shall solicit expert testimony regarding the historic and architectural importance of the building, structure, site, monument, area or other landmark under consideration for designation.

(6) The landmarks commission may present testimony or documentary evidence of its own to establish a record regarding the historic and architectural importance of the proposed landmark property.

(7) The landmarks commission shall afford to the owner of said proposed property reasonable opportunity to present testimony or documentary evidence regarding the historic and architectural importance of the proposed landmark property.

(8) The owner of property proposed for landmark designation shall be afforded the right of representation by counsel and reasonable opportunity to cross examine witnesses presented by the landmarks commission.

(9) Any interested party may present testimony or documentary evidence regarding the proposed landmark designation at the public hearing and may submit to the landmarks commission documentary evidence within three days after the hearing.

(10) Within not more than forty-five days after a public hearing, the landmarks commission shall render a final decision regarding the proposed designation and shall give written notice of its decision to the owner of the property proposed for designation setting forth the reasons thereof.

(11) The landmarks commission shall maintain a record of all testimony and documentary evidence submitted to the commission for consideration of a proposed landmark designation.

(12) Within thirty days of the date on which the landmarks commission designates any building, structure, site, monument, landmark as worthy of preservation, the commission shall cause to be filed in the conveyance office of the parish in which the designated landmark property is located a certificate of notification that such property is designated a landmark, and said certificate of notification shall be maintained on the public records until such time as the landmark designation may be withdrawn by the commission.

Acts 1974, No. 273, §9.

§760. Certificates of appropriateness

A. The historic preservation district or landmarks commission shall hold a public hearing upon each application for a certificate of appropriateness affecting property under its control except in those instances where the commission has determined that the application for a certificate of appropriateness is not a substantive change and further that the commission has determined the certificate complies with standards adopted by said commission. Notice of the time and place of said hearing shall be given by publication in the form of a legal advertisement appearing in the official journal of the governmental unit or in a newspaper having general circulation in the area served by the governmental unit, provided it has one, at least seven days before such hearing, and by the posting of such notice on or near the main entrance of any hall or room where the commission usually meets.

B. Within not more than forty-five days after the filing of an application the commission shall pass upon it, giving consideration to the factors set forth in R.S. 25:757(A) and (B), and shall give written notice of its decision to the applicant setting forth the reasons therefor. Evidence of approval shall be by certificate of appropriateness issued by the commission, and whatever its decision, notice in writing shall be given to the applicant. The commission shall keep a record of all applications for certificates of appropriateness and of all its doings under this Part.

C. No building permit shall be authorized by the governing body which affects a site or structure in the historic preservation district or a designated landmark without a certificate of appropriateness except as otherwise permitted by the governing authority.

D. The commission shall have the right to make such recommendations for changes and modifications as it may deem to be necessary in order to enable the applicant to meet with its requirements.

Acts 1974, No. 273, §10.

§761. Hardship variances

Where, by reason of topographical conditions, irregularly shaped lots, or because of unusual circumstances applicable solely to the particular applicant, strict enforcement of the provisions of this Part would result in serious undue hardship particularly affecting said applicant, then the commission, in passing upon his application, shall have the power to vary or modify adherence to this Part; provided always that its requirements insure harmony with the general purposes hereof, and will not adversely affect an historic preservation district as a whole or any designated landmark.

Acts 1974, No. 273, §11.

§762. Commission enforcement powers

A. A landmarks commission and an historic preservation district commission shall have the power to institute suit in any court of competent jurisdiction, to prevent any unlawful action in violation of the provisions of this Part or of any of the rules and regulations adopted by the commission in conformity with it.

B. Any owner, agent, lessee or other person acting for or in conjunction with him, who shall violate the ordinance or law or rules, regulations or decisions of a commission, shall be fined not less than fifty dollars nor more than one hundred dollars for each violation. Each day that a violation continues shall constitute a separate offense.

Acts 1974, No. 273, §12.

§763. Appeals

A. Any person or persons aggrieved by any decision, act or proceeding of an historic preservation district or landmarks commission shall have a right to apply in writing to the governing body of the governmental unit for reversal or modification thereof; and the chief executive official, or presiding officer of said governing body, shall have the right to stay all further action until said governing body may affirm a decision of the commission by majority vote of all its members. Any such appeal shall be taken in ten days from date of decision; and said governing body may consider said appeal at its next general or special meeting, but in any event, not more than forty-five days thereafter. Said governing body shall have the right to reverse, change or modify any decision of the commission only by two-thirds vote of all its members.

B. Any person or persons aggrieved by any decision of the governing body affecting said historic preservation district or a designated landmark shall have the right to file a civil suit within thirty days from date of decision in a court of competent jurisdiction under the usual rules of procedure governing same, with the right to stay orders and injunctive relief provided the situation warrants it.

Acts 1974, No. 273, §13.

§764. Applicability of historic district commission powers

It is the intent and purpose of this Part that the regulatory powers conferred by it on an historic preservation district commission, created under its authority, shall apply to all private property, in the area controlled by it, including all buildings, structures, areas, sites, and their adjuncts and appurtenances, insofar as they constitute part of the entirety or "tout ensemble" of the historic section. Any governmental agency of the state or local government, other than the governing body, having a responsibility for any building, structure, area, site, public way and their adjuncts and appurtenances within the historic preservation site shall seek the advice of the historic district commission prior to the initiation of any substantive change, modification, renovation, restoration or construction.

Acts 1974, No. 273, §14.

§765. Additional commission powers

Any historic district and/or landmarks commission that may be created or established under the provisions of this Part may be empowered by the governing body to perform the following:

Make periodic reports to the governing body; provide information to property owners and others involving the preservation of the district; suggest pertinent legislation; initiate planning and zoning proposals; cooperate with other regulatory agencies and civic organizations and groups interested in historic preservation; review all applications for zoning variances and conditional uses where they affect the historic districts; render advice with reference to sidewalk construction and repair, tree planting; street improvements, and also the renovation, restoration or construction of public buildings; furnish information and assistance in connection with any capital improvement program involving the historic area; consult with the National Trust for Historic Preservation and other expert groups; administer such financial mechanisms as the local governing body may establish for the welfare of the governmental unit within an historic district or which may apply to designated landmark property.

Acts 1974, No. 273, §15.

§766. Landmarks capability of historic district commissions

A historic preservation district commission may be empowered by the local governing body to name or designate any site, location, structure, or monument within

the area served by the governmental unit as worthy of preservation whether within or outside of the confines of its historic district and to exercise all other powers and functions of a landmarks commission as specifically enumerated above, except that no historic district commission shall be empowered to act in a landmarks capacity where its jurisdiction overlaps the authority of an existing landmarks commission created pursuant to this Part.

Acts 1974, No. 273, §16.

§767. Exemptions

A. None of the provisions of this Part shall apply to or affect in any way any municipality or parish except the city of New Orleans and the parishes of Franklin, Tensas, LaSalle, Catahoula, Concordia, and Caldwell. None of the provisions of this Part shall apply to or affect in any way the Vieux Carre' Section or Vieux Carre' Commission of the city of New Orleans as defined by Article XIV, Section 22A of the Constitution of Louisiana of 1921, nor shall the limitation of one historic preservation district commission as set forth in R.S. 25:756(1) apply to the city of New Orleans.

B. None of the provisions of this Part shall apply to or affect any property, site, or area upon lots designated RS1, RS2, RD1, or RD2 under the Comprehensive Zoning Ordinance of the city of New Orleans in that area of the city of New Orleans bounded by the river side of Carondelet Street, the uptown side of Josephine Street, the lake side of Magazine Street, and the uptown side of Louisiana Avenue, except that all properties having a lot line on St. Charles Avenue may be regulated under the terms of this Part and except also that all construction of new structures and demolitions of existing structures may be regulated under the terms of this Part.

C. Any historic preservation district commission created pursuant to the provisions of R.S. 25:731 to 25:745 shall not be affected hereby nor shall any other similar entity heretofore created by the legislature be affected hereby particularly, but without limitation, those created pursuant to R.S. 25:305 through 25:455, nor shall such entity affect any commission established pursuant to this Part nor shall the provisions of this Part impair, affect or repeal the authority of municipalities or parishes, to establish historic preservation districts pursuant to R.S. 25:731 to 25:745.

Acts 1974, No. 273, §§17, 18. Amended by Acts 1978, No. 789, §1; Acts 1984, No. 440, §1; Acts 2001, No. 1073, §1; Acts 2011, 1st Ex. Sess., No. 4, §1.