



## Legislation Details (With Text)

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**File created:** 9/6/2012      **In control:** Rules & Reference Committee

**On agenda:** 10/1/2012      **Final action:** 10/3/2012

**Title:** To amend various sections in Title 31, Planning and Historic Preservation, in order to correct references to the prior title of that code, Planning and Platting, as the platting function is now part of Title 43, Engineering and Platting.

**Sponsors:** Zach M. Klein

**Indexes:**

**Code sections:**

**Attachments:**

Date	Ver.	Action By	Action	Result
10/3/2012	1	CITY CLERK	Attest	
10/2/2012	1	MAYOR	Signed	
10/1/2012	1	COUNCIL PRESIDENT	Signed	
10/1/2012	1	Columbus City Council	Approved	Pass
9/24/2012	1	Columbus City Council	Read for the First Time	

**BACKGROUND:** As part of the 2010 code changes that created the new Department of Building and Zoning Services, the code sections related to platting and land subdivision were moved from Title 31, Planning and Platting, to Title 41, Engineering and Platting. Also as part of those code changes, Title 31 was renamed to Planning and Historic Preservation to better reflect the focus of the remaining code in that title. These code changes correct all remaining code references to the prior title of Title 31, Planning and Platting, in order to correctly reflect the current title of that code, Planning and Historic Preservation.

**FISCAL IMPACT:** No funding is required for this legislation.

To amend various sections in Title 31, Planning and Historic Preservation, in order to correct references to the prior title of that code, Planning and Platting, as the platting function is now part of Title 43, Engineering and Platting.

**WHEREAS,** as part of the 2010 code changes that created the new Department of Building and Zoning Services, the code sections related to platting and land subdivision were moved from Title 31, Planning and Platting, to Title 41, Engineering and Platting; and

**WHEREAS,** also as part of those code changes, Title 31 was renamed to Planning and Historic Preservation to better reflect the focus of the remaining code in that title; and

**WHEREAS,** these code changes correct all remaining code references to the prior title of Title 31, Planning and Platting, in order to correctly reflect the current title of that code, Planning and Historic Preservation; now, therefore,

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:**

**Section 1.** That the existing Section 3101.01 of the Columbus City Codes is hereby amended to read as follows:

**3101.01 - Purpose.**

This Planning and Historic Preservation Platting Code is enacted to preserve and promote the public health, safety and welfare by means of regulations and restrictions enacted to encourage the orderly growth and development of the city; to provide for adequate light, air, open space and convenience of access; to protect against fire and natural hazards; and to maintain and enhance the value of buildings, structures and land throughout the city.

**Section 2.** That the existing Section 3101.03 of the Columbus City Codes is hereby amended to read as follows:

**3101.03 - Scope and application of provisions.**

The provisions of the Planning and Historic Preservation Platting Code shall be held to be minimum requirements adopted for the promotion of the public health, safety and welfare and shall be so interpreted and applied.

It is not intended by this code to repeal, abrogate, annul or in any way impair or interfere with other laws or ordinances or public or private restrictions placed upon property by covenant, deed or other agreement, except that where the Planning and Historic Preservation Platting imposes higher or more restrictive standards the provisions of this code shall control.

**Section 3.** That the existing Section 3101.05 of the Columbus City Codes is hereby amended to read as follows:

**3101.05 - Severability.**

The provisions of this Planning and Historic Preservation Platting Code are considered to be severable; and if a court of competent jurisdiction holds a provision or part of a provision unconstitutional, that decision will not automatically invalidate the remainder of a provision or any other provision or part thereof.

**Section 4.** That the existing Section 3101.09 of the Columbus City Codes is hereby amended to read as follows:

**3101.09 - Violation.**

A violation of the Planning and Historic Preservation Platting Code exists when a person or owner:

- A. Fails to comply with relevant provisions of requirements of the Planning and Historic Preservation Platting; or
- B. Fails to comply with an order issued by the director or designee.

**Section 5.** That the existing Section 3103.01 of the Columbus City Codes is hereby amended to read as follows:

**3103.01 - Definitions.**

For purposes of Title 31, the Planning and Historic Preservation Platting Code, the following definitions shall apply:

"Department" when used without clarification means the department of development.

"Director" when used without clarification means the director of the department of development or his or her designee.

**Section 6.** That the existing Section 3116.18 of the Columbus City Codes is hereby amended to read as follows:

**3116.18 - Approvals required.**

The Director building inspector shall issue no permit for the construction, reconstruction, alteration or demolition of any structure or architectural feature now or hereafter in a listed property or district except in cases excluded by C.C. 3116.23, unless the application therefore shall be certified under C.C. 3116.05 as involving no architectural feature or shall be accompanied by a certificate of appropriateness issued under C.C. 3116.09.

(A) Except in cases excluded by C.C. 3116.23, the applicant may initiate the construction, reconstruction, alteration, demolition or site improvement only upon receipt of the certificate of appropriateness or clearance, and

upon subsequently obtaining any or all building permits, registrations, zoning clearances, and other approvals required by Columbus City Codes.

(B) No building permit, registration, zoning clearance, or other required approvals shall be obtained unless and until the issuance of the required certificate of appropriateness or clearance. The building inspector and/or Director shall void any permit or approval issued prior to a required certificate of appropriateness.

(C) Any construction, alteration, work, action, or site improvement not in compliance with, or contrary to that specifically approved in the certificate of appropriateness or clearance shall be a violation of this Planning and Historic Preservation Code ~~planning and platting code~~.

**Section 7.** That the existing Section 3116.21 of the Columbus City Codes is hereby amended to read as follows:

**3116.21 - Right to appeal.**

An applicant who, has been denied a certificate of appropriateness, may appeal the commission's decision to the board of commission appeals in accordance with the provisions of Chapter 3118 and the standards and criteria of this chapter.

Any owner affected by a notice which has been issued in connection with the enforcement of provisions of the Planning and Historic Preservation ~~Platting~~ Code or the Zoning Code relating to architectural review, may petition the board of commission appeals for a hearing on all matters set forth in such notice in accordance with the provisions of Chapter 3118 and the standards and criteria of this chapter.

**Section 8.** That the existing Section 3116.27 of the Columbus City Codes is hereby amended to read as follows:

**3116.27 - Contents of notice of violation.**

Whenever the director, or his or her designee, determines that there is a violation of any provision of the Planning and Historic Preservation ~~Platting~~ Code or the Zoning Code relating to architectural review or of any rule or regulation adopted pursuant thereto, he or she shall give notice of such violation to the owner as defined in C.C. 3116.016, as hereinafter provided. Such notice shall:

- (A) Be in writing;
- (B) Include a statement of the reasons why it is being issued;
- (C) Allow a reasonable time for the performance of any act it requires;
- (D) Be served by any one (1) of the following methods:
  - (1) Personal service; or
  - (2) Certified mail; or
  - (3) Residence service; or
  - (4) Publication; or
  - (5) Regular mail service to an address that is reasonably believed to be either a place of residence or a location at which the owner regularly receives mail; or
  - (6) Posting the notice of violation on or in the property, except that if a structure is vacant, then the notice shall be posted on the structure and one (1) of the above methods of service shall also be used.
- (E) Be available to any person upon request after payment of a reasonable fee to cover the cost of making a copy of the same.

Any notice served shall automatically become an order if a written petition for a hearing before the board of commission appeals is not filed in the historic preservation office ten (10) calendar days after such notice is served.

**Section 9.** That the existing Section 3118.05 of the Columbus City Codes is hereby amended to read as follows:

**3118.05 - Duties.**

The board of commission appeals shall hear and decide, in compliance with the provisions of this chapter, all appeals from any commission's denial of an application for a certificate of appropriateness for proposed construction, alteration or demolition of a structure, appurtenance or architectural feature of a listed property or in a district.

The board shall review such appeals by determining whether the applicant can establish by sufficient evidence whether a commission decision to deny an application for a certificate of appropriateness was arbitrary, capricious and unreasonable.

The board shall also have the authority to review claims of unusual and compelling circumstances and/or substantial economic hardship that have been raised by an applicant pursuant to the rehearing process outlined in Chapter 3116. The board shall consider appeals brought by persons affected by notice of violation citing a violation of this Planning and Historic Preservation ~~Platting~~ Code or the Zoning Code relating to architectural review.

**Section 10.** That the existing Section 3118.06 of the Columbus City Codes is hereby amended to read as follows:

**3118.06 - Appeal.**

(A) The board of commission appeals shall hear appeals upon written application and within such time as set forth in this chapter. The board may reverse, affirm or modify the order, notice, requirement, decision or determination appealed from after a review of the case file.

(1) Appeals based on a claim that an architectural review commission or the historic resources commission decision to deny an application for a certificate of appropriateness was arbitrary, capricious and unreasonable shall be filed within ten (10) days after a receipt of a final order in writing by the commission.

(2) Appeals to the board based upon a notice of violation or violations issued in connection with the enforcement of provisions of the Planning and Historic Preservation ~~Platting~~ Code or the Zoning Code relating to architectural review shall be filed within ten (10) days after receipt of the notice of violation.

(3) Appeals to the board based upon the existence of unusual and compelling circumstances and/or substantial economic hardship are available only after following the procedure set forth in C.C. 3116.19 and must be filed within ten (10) days after receipt of a final order in writing by the commission.

(B) Applications for appeal shall be submitted in writing with all supporting documentation as required by this chapter on a form provided by the historic preservation office within ten (10) days after receipt of the final order of the commission. When the appeal involves a notice of violations as described in (A)(2) above, the affected owner shall file a written petition requesting a hearing and said petition must set forth the factual reasons why a particular violation or violations is being appealed. The board shall not entertain appeals or petitions that are not filed within this ten (10) day period.

**Section 11.** That the prior existing Sections 3101.01, 3101.03, 3101.05, 3101.09, 3103.01, 3116.18, 3116.21, 3116.27, 3118.05, and 3118.06 of the Columbus City Codes, 1959, are hereby repealed.

**Section 12.** That this ordinance shall take effect and be in force from and after the earliest period provided by law.