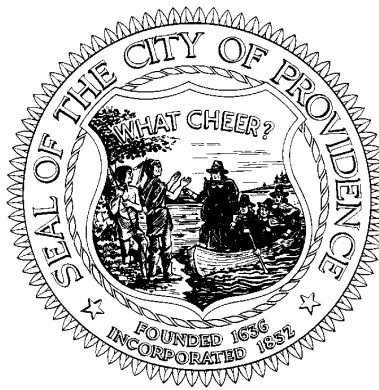


PROVIDENCE HISTORIC DISTRICT COMMISSION

RULES AND REGULATIONS

*Adopted 10/28/91; Amended 12/16/91, 2/24/92, 7/26/93, 1/24/94, 7/25/94, 6/24/96,
1/28/02, 7/22/02 & 11/24/03*



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PROVIDENCE HISTORIC DISTRICT COMMISSION

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SECTION 1 – GENERAL PROVISIONS

- 1.1 **AUTHORITY:** These rules and regulations are adopted pursuant to Article V, Section 501 of the Providence Zoning Ordinance (Chapter 1991-29, No. 564, adopted 10/24/91), authorizing the Providence Historic District Commission (HDC) to adopt rules and regulations which are necessary to carry out its functions.
- 1.2 **PURPOSE:** To establish procedures for processing applications for Certificates of Appropriateness, for enforcement, and for the internal management of the HDC.
- 1.3 **GENERAL RULES:** The HDC shall be governed by the terms of Article V, Section 501, Historic District Zoning, of the Providence Zoning Ordinance (Chapter 1991-29, No. 564), and by the terms of R.I.G.L. 45-24.1 et seq., Historical Area Zoning.
- 1.4 **JURISDICTION:** Under Article V, Section 501 of the Providence Zoning Ordinance (Chapter 1991-29, No. 564), the HDC shall have the authority to regulate the construction, alteration, repair, demolition and moving of any structure or appurtenance which results in a change to the exterior of the structure and/or appurtenance within any Historic District in the City, as designated in accordance with the Providence Zoning Ordinance and shown on the official Zoning Map.

SECTION 2 – ORGANIZATION

- 2.1 **MEMBERSHIP:** The HDC shall be constituted in accordance with Article V, Section 501 of the Providence Zoning Ordinance (Chapter 1991-29, No. 564) and R.I.G.L. 45-24.1-3.
 - A. Chair: A Chair shall be appointed by the Mayor. The Chair shall preside over all HDC meetings and shall decide all points of order and procedure, unless directed otherwise by a majority of the HDC in session at the time. The Chair shall appoint any committees found necessary to investigate any matters before the HDC.
 - B. Vice-Chair: A Vice-Chair shall be elected by the HDC from among its members, by majority vote of its members, and shall be eligible for re-election. The Vice Chair shall serve as acting Chair in the absence of the Chair. At such times, the Vice Chair shall have all the same powers and duties as the Chair. The Vice Chair shall be elected at the first regular meeting of each calendar year.
 - C. Deputy Vice-Chair: A Deputy Vice-Chair shall be elected by the HDC from among its members in the same manner as the Vice Chair, and shall be eligible for re-election. S/he shall serve as acting Chair in the absence of the Chair and Vice Chair, and at such times shall have the same powers and duties as the Chair. The Deputy Vice Chair shall be elected at the first regular meeting of each calendar year.

- 2.2 STAFF: The Department of Planning and Development shall supply staff for the HDC's day-to-day operations, and a member of the staff shall serve as the secretary to the HDC. Staff shall not be eligible to vote upon any matter before the HDC. The duties of staff shall be as follows:
- A. Keep all records, conduct all correspondence of the HDC, provide public information, and handle the clerical and administrative work of the HDC;
 - B. Act as liaison between the HDC and all other agencies, departments and organizations to which it must relate in the conduct of its affairs;
 - C. Consult with applicants and property owners regarding the procedures, rules and regulations, and standards and guidelines of the HDC;
 - D. Prepare a written analysis of each application pending before the HDC, discussing the historical and architectural significance of the property, consistency of the proposal with standards and guidelines, preservation issues, and other pertinent information;
 - E. Issue in-house staff approvals for applications for Certificates of Appropriateness for in-kind replacement and repairs, and for other work as defined in the HDC standards and guidelines. The HDC may, by action at a public hearing, direct to staff the approval of any application. In-house staff approvals shall be consistent with the standards and guidelines. Staff may not deny an application, but shall refer such action to the HDC for a hearing; and,
 - F. Perform such duties and assume such other responsibilities as the HDC may from time to time direct.
- 2.3 RECORDS: The HDC shall keep written records of its meetings, deliberations, and decisions. The Secretary of the HDC shall have the primary responsibility for keeping the records. The HDC may also require a verbatim, recorded or stenographic record. All records shall be open to the public.
- A. Review of HDC Records: Requests to view the HDC's records shall be in writing. Records shall be made available within ten (10) calendar days of the receipt of the request. Copies of the records will be made available for a fee.
 - B. Minutes: Minutes of HDC hearings shall show the vote of each member on each question, including absences and abstentions. At minimum, minutes shall contain:
 - 1. A listing of HDC members present and absent;
 - 2. A listing of others present, specifically staff, city solicitor, public agency staff, applicants and/or representatives;
 - 3. Approval of the minutes of the previous meeting;

4. Summary of applications for Certificates of Appropriateness and the preservation issues presented, including a description of the relevant features of the building, structure or appurtenance which will be affected;
5. Summary of arguments and materials presented for each application, including supporting documents, objections and corrections;
6. Summary of HDC deliberations for each application, including all references to the HDC standards and guidelines used; and,
7. Findings of fact made, conclusions reached, and actions or motions taken on each application or other general business before the HDC.

2.4 OFFICE: The HDC's office shall be located in the Department of Planning and Development.

2.5 LEGAL COUNSEL: The City Solicitor's office shall be requested by the HDC to assist in all legal matters.

SECTION 3 – MEETINGS

3.1 REGULAR MEETINGS: The HDC shall establish a schedule of regular meetings for the calendar year and post it in the City Clerk's office and the Department of Planning and Development. Regular meetings shall be held on the fourth Monday of each month at 4:45 p.m. in the offices of the Department of Planning and Development or at such other day, time or location accessible to the public announced at least seven (7) days prior to the regular meeting. *[Amended 6/24/96.]*

3.2 BUSINESS MEETINGS: The HDC may hold a business meeting for the purposes of discussing standards and guidelines, rules and regulations, procedures, and such other business as may come before it, including any overflow of applications for Certificates of Appropriateness which could not be heard at a regular meeting because of time limits. Business meetings may be held during a regular meeting, or separately on the second Monday of each month at 3:30 p.m. at the offices of the Department of Planning and Development, or at such other day, time or location accessible to the public announced at least seven (7) days prior to the regular meeting. *[Amended 2/24/92.]*

3.3 SPECIAL MEETINGS: Special meetings of the HDC may be called at any time by the Chair. At least forty-eight (48) hours notice of the time and place of the special meeting shall be given by the staff or the Chair to each member of the HDC and shall be posted in the City Clerk's office and the Department of Planning and Development. *[Amended 11/24/03.]*

3.4 CANCELLATION OF MEETINGS: When in the opinion of the Chair there is good cause, the Chair may dispense with a regular meeting by giving notice to all members and all applicants

scheduled for the meeting, not less than twenty-four (24) hours prior to the time set for the meeting.

- 3.5 ATTENDANCE: The HDC shall advise the Mayor of any member of the HDC who fails to attend more than five (5) consecutive regular meetings and shall request that the position be declared vacant and a new member be appointed. Absences due to sickness, death, or other emergencies of like nature may be recognized as excused absences. The staff shall notify a member when s/he is approaching the maximum number of unexcused absences. When a member has exceeded the maximum number of unexcused absences, the staff shall notify the HDC. (Providence Home Rule Charter Article XII, Section 1202.)
- 3.6 CONDUCT OF MEETINGS: All meetings shall be open to the public. The order of business at regular meetings shall include:
- A. Call to order;
 - B. Roll call;
 - C. Approval of the minutes of the previous meeting;
 - D. Old business, including continued applications;
 - E. New business, including applications for Certificates of Appropriateness;
 - F. New business, including applications for Certificates of Appropriateness that are in response to a Notice of Violation;
 - G. Other Business, including Preliminary Applications, National Register of Historic Places Nominations, and any other pertinent HDC administrative actions; and,
 - H. Adjournment. *[Amended 11/24/03.]*
- 3.7 EXECUTIVE SESSION: For purposes authorized by the open meeting law, the HDC may on a motion duly adopted and for reasons stated on the record, adjourn to executive session.

SECTION 4 – PROCEDURES

- 4.1 PUBLIC HEARING: The HDC shall hold a public hearing on an application for Certificate of Appropriateness.
- A. Applications shall primarily be scheduled for a public hearing at the HDC's regular meeting on the fourth Monday of the month. The last application shall be heard at 7:00 p.m. unless a quorum of the HDC agrees that the meeting may carry on after that time. Applications not heard by 7:00 p.m. shall be rescheduled to a business meeting on the second Monday of the next month, unless the applicant agrees to a further extension. *[Amended 2/24/92.]*
 - B. Applications involving repair and in-kind replacement, or those items delegated to in-house review under the HDC standards and guidelines, shall not require a public hearing unless referred to one by the HDC staff.

- 4.2 NOTICE: Notice of the hearing shall be given to the applicant, property owner, and other persons listed on the application form, to abutting property owners, to the HDC members, and to other persons requesting notice, at least seven (7) days prior to the public hearing, by regular mail. The applicant shall supply the HDC with a list of the names and addresses of all abutting property owners from the most current records of the City Tax Assessor.
- 4.3 QUORUM: A majority of the duly appointed members shall constitute a quorum.
- 4.4 VOTING: The majority vote of the members making up the required quorum of the HDC at a duly noticed meeting shall be necessary to approve or disapprove of any plans before the HDC, or to amend these rules and regulations or the HDC standards and guidelines. Proxy voting is not allowed. *[Amended 1/28/02.]*
- 4.5 CONFLICT OF INTEREST: No HDC member shall take part in the consideration or determination of any application for a Certificate of Appropriateness in which s/he is a party or has a financial interest, except as noted in the Rhode Island Ethics Commission Advisory Number 8, dated November 30, 1989. It shall be the responsibility of the HDC member having a potential conflict of interest to disclose such conflict in writing and to recuse him/herself from participation in the discussion or the vote. Minutes shall state that the member has recused him/herself from consideration of the matter.
- 4.6 CONDUCT OF MEMBERS: Members of the HDC shall be discouraged from expressing individual opinions on the proper judgement of any application with any persons prior to the determination on that application, except in accordance with these rules.
- 4.7 SITE VISITS: A subcommittee of the HDC, or the staff, shall be available to meet on site with the applicant or his/her representatives at any time in the design process in order to advise them informally concerning the HDC's procedures and guidelines, the nature of the area where the proposed construction is to take place, and other relevant factors. The applicant shall agree, by signing the application, to allow the HDC, as a group or individually, or the staff to make site visits from time to time as deemed necessary.
- 4.8 ADVISORY OPINIONS: Outside a regular meeting, the HDC shall refrain from any indication of approval or disapproval, but shall not, for that reason, be barred from a reasonable discussion of the applicant's proposals. No advice or opinion given, or reported as having been given, by any member of the HDC at a pre-application hearing, at a site visit, or at an informal meeting shall in any way be official or binding upon the HDC. Only the official vote of the HDC shall be binding.
- 4.9 APPEALS: Any person aggrieved by a determination of the HDC may appeal that decision within twenty (20) days of the date of the written resolution. Appeals are made to the Zoning Board of Review. *[Amended 7/26/93, 7/25/94.]*

SECTION 5 – APPLICATIONS FOR CERTIFICATE OF APPROPRIATENESS

- 5.1 APPLICATIONS: An application for Certificate of Appropriateness is required for any change which affects the exterior appearance of a structure or its appurtenances located in a historic district, including construction, alteration, repair, moving or demolition. An appurtenant feature is a feature other than a primary or secondary structure which contributes to the exterior appearance of a property.
- A. Application Categories: Applications may be accepted in the following categories:
1. New construction/additions;
 2. Alterations/minor modifications;
 3. Signage;
 4. Awnings/shutters and blinds;
 5. Site improvements;
 6. In-kind replacement/repairs;
 7. Demolition; and,
 8. Moving of structures.
- B. Preliminary Applications: An applicant seeking a Certificate of Appropriateness for new construction, additions or major alterations shall first file a preliminary application for Conceptual Approval from the HDC. The HDC shall use the same order of business as in reviewing Certificates of Appropriateness, and may grant or deny Conceptual Approval. Conceptual Approval shall provide that the applicant file an application for Certificate of Appropriateness for approval of final details.
- C. Pre-Application Hearing: An applicant may seek a pre-application hearing with the HDC when new construction, additions or major alterations are proposed. Such requests shall be submitted in writing. Staff shall review the pre-application request to determine if it warrants HDC review, and may accept the request. The HDC shall use the same order of business as in reviewing Certificates of Appropriateness, with the following exceptions:
1. No formal determination to approve or deny the proposal shall be made;
 2. The HDC may provide agencies of the City with advisory opinions, which shall identify preliminary preservation issues, and may suggest solutions; and,
 3. After a pre-application hearing the HDC shall provide the applicant with a written advisory. Advisory opinions shall be non-binding.
- 5.2 FILING OF APPLICATIONS: An application for a Certificate of Appropriateness must be filed in person and by appointment with the HDC staff at least twelve (12) calendar days before the regular meeting on the fourth Monday of the month, except in cases of demolition or economic hardship. Applications for demolition or economic hardship shall be filed at least

thirty (30) and no more than forty-five (45) calendar days before a regular meeting. All applications must be signed by the property owner and applicant. Applications must be accompanied by all documentation reasonably necessary to evaluate the proposal, including photographs, drawings, plans, or other information as requested by the HDC or staff. It is the owner/applicant's responsibility to submit all required documentation. INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED. *[Amended 2/24/92, 7/26/9 & 1/24/94.]*

- 5.3 ACCEPTANCE OF APPLICATIONS: Staff shall review all applications for completeness of documentation, according to minimum standards published in the HDC standards and guidelines. Incomplete applications will not be scheduled for a hearing. The HDC shall vote at the beginning of the hearing on each application, before any presentation or testimony begins, whether an application is complete and can be accepted. Upon acceptance, the formal review period begins. Acceptance of an application does not preclude the HDC from requesting any additional information it determines to be necessary to make a decision on the application. *[Amended 2/24/92.]*
- 5.4 ZONING VARIANCES: Projects which will require relief from the provisions of the Providence Zoning Ordinance (Chapter 1991-29, No. 564) shall obtain any necessary variances before an application for a Certificate of Appropriateness is filed. Written confirmation that all variances have been granted shall be submitted along with the application; however, the fact that a zoning variance has been granted shall not guarantee that the project will receive a Certificate of Appropriateness. Applications seeking Conceptual Approval may be exempted from this requirement. The HDC may also waive this requirement if the zoning issue is not related to the physical condition of the property or will not compromise the HDC standards and guidelines. Zoning status shall be determined by the Department of Inspection and Standards. *[Amended 7/26/93.]*

SECTION 6 – ACTIONS ON AN APPLICATION

- 6.1 REVIEW CRITERIA: In reviewing applications for Certificates of Appropriateness, the HDC shall use the criteria set forth in R.I.G.L. 45-24.1 et. seq., Article V, Section 501 of the Providence Zoning Ordinance (Chapter 1991-29, No. 564) and the Standards & Guidelines designated and approved by the HDC. The HDC may designate more explicit design standards and guidelines as it deems necessary. *[Amended 11/24/03.]*
- 6.2 CONSIDERATION OF APPLICATIONS: The applicant or his/her designated agent shall appear at the hearing on his/her application. All testimony shall be sworn. The order of business for consideration of applications for Certificates of Appropriateness shall be determined by the Chair and may include the following:
- A. A staff report, project review comments and/or subcommittee report;
 - B. A presentation by the applicant, including arguments and material in support of the application. The presentation shall present the material in a way that both the HDC and the

public audience may hear, see and understand the verbal and graphic description of the proposed work and its impact on the features of the buildings, structures, appurtenances and historic landscape features of the property and the district in which it is located;

- C. Statements or arguments submitted by any official, commission or department of the City of Providence, any state agency, or any local historical, preservation or neighborhood organization;
- D. Public comments from interested parties, abutters, etc;
- E. HDC members' questions of the applicant, staff, or subcommittee concerning the application;
- F. A summary of the application, arguments and materials presented;
- G. After closing the hearing to public comment, HDC deliberation regarding a Certificate of Appropriateness, based upon evidence submitted, adopted Standards and Guidelines, and the impact of the project on the features of the buildings, structures, appurtenances, and historic landscape features of the property; and,
- H. Findings of fact, motion(s) to approve or deny the application, and voting.
[Amended 11/24/03.]

6.3 LIMIT OF TIME FOR TESTIMONY: The Chair may limit the amount of time allowed at a public hearing for verbal testimony regarding any application or other business before the HDC. Such limit shall be announced at the beginning of the hearing or before the hearing of an individual application. Written testimony may be submitted for HDC consideration in cases where verbal testimony is limited. *[Amended 2/24/92 & 11/24/03.]*

6.4 DETERMINATIONS: An application for a Certificate of Appropriateness may be approved, denied, or approved with amendments or conditions by the HDC. Motions to grant or deny a Certificate of Appropriateness shall include findings of fact and a specific reference to the review criteria under which the proposal has been judged.

A. Resolutions: All decisions of the HDC shall be in writing. The HDC shall articulate and explain the reasons and basis of each decision on a record in the form of a Resolution. In the case of a decision not to issue a Certificate of Appropriateness, the HDC shall include the basis for its conclusion that the proposed activity would be incongruous with those aspects of the structure, appurtenances, or the district which the HDC has determined to be historically or architecturally significant.

B. Issuance/Receipt of a Certificate of Appropriateness:

I. Upon issuance of a Certificate of Appropriateness, the HDC or its designee shall:

1. Stamp three (3) sets of all application documents, including the application form and all plans and drawings. The documents will be dated, stamped and signed by the Chair or the staff as directed by the Chair.
2. Return two (2) sets of signed and stamped documents to the applicant along with a copy of the resolution. It is the responsibility of the applicant to file one (1) set of stamped and signed documents and a copy of the resolution with the Department of Inspection and Standards for the necessary permits.
3. Retain one (1) set of stamped and signed documents for the HDC files at the Department of Planning and Development.

II. Upon receiving a Certificate of Appropriateness, the applicant shall:

1. Obtain any necessary building permits; and,
2. Upon the completion of the project as specified in the Scope of Work, shall complete a Confirmation of Work Completed form and shall submit it to HDC staff for approval. Failure to do so before the expiration of the Certificate of Appropriateness expires will result in a Notice of Violation being issued for work done not in compliance with the Certificate of Appropriateness, and a lien being placed on the property;
 - a. If work specified in a Certificate of Appropriateness is not undertaken before the Certificate of Appropriateness expires, a letter shall be sent to the HDC requesting an extension, or informing the HDC that the project shall not be undertaken.*[Amended 11/24/03.]*

- C. Conditional Approval: The HDC may issue a Certificate of Appropriateness/Conditional Approval where an application would otherwise be approved except that one (1) or more necessary city, state or federal agency approvals are pending. If other necessary approvals are not obtained within 180 days of the Conditional Approval, then the Certificate will become null and void and a new application will be required to proceed with the project. If other agency reviews result in changes to the project approved by the HDC, then those changes shall be brought back to the HDC for approval. *[Amended 12/16/91.]*

6.5 FAILURE TO ACT

- A. Automatic Approval: The failure of the HDC to act within forty-five (45) days from the date of the acceptance of a completed application in accordance with these rules and regulations shall be deemed to constitute approval unless an extension is agreed upon mutually by the applicant and the HDC.

B. Extensions:

1. In the event that the HDC shall make a written finding of fact within this forty-five (45) day period that a particular application requires further time for additional study and information, then the HDC shall have a period of up to ninety (90) days from the date of acceptance of a completed application within which to act on such application.
2. Nothing in this section shall be construed to prevent the applicant and the HDC from mutually agreeing to an extension beyond the ninety (90) days.

- 6.6 MODIFICATIONS TO A CERTIFICATE OF APPROPRIATENESS: Changes to a project after a Certificate of Appropriateness is issued shall require a new application for Certificate of Appropriateness. Such application shall be submitted before construction of the changes begins, unless the HDC determines at a pre-application hearing that a full application is not required. New applications will be reviewed in accordance with these rules and regulations and the Providence Zoning Ordinance. Any change not so approved shall be deemed a violation of the Certificate of Appropriateness and of the Zoning Ordinance.
- 6.7 MODIFICATIONS TO AN APPLICATION: A pending application for a Certificate of Appropriateness may be modified by a written request from the applicant to the HDC. Such request shall include a description of the proposed change and shall be accompanied by elevations, plans, photographs and/or sketches as necessary. If an application is modified, it shall be considered a new application and shall be handled in accordance with these rules and regulations.
- 6.8 EXPIRATION OF A CERTIFICATE OF APPROPRIATENESS: Any Certificate of Appropriateness granted by the HDC shall expire one (1) year after the date of the approval, unless the applicant shall, within the one (1) year, obtain a legal building permit and proceed with construction, or obtain a certificate of occupancy when no legal building permit is required. The HDC, upon written request and for cause shown prior to the expiration of the initial one (1) year period, may renew the Certificate of Appropriateness for a six (6) month period. An applicant's failure to act within the six (6) month extension shall cause the Certificate to become null and void and will require the applicant to file a new application with the HDC. *[Amended 7/22/02.]*
- 6.9 RESUBMITTAL OF A DENIED APPLICATION: An application for Certificate of Appropriateness which has been denied by the HDC shall not be heard again for a period of one (1) year from the date the application was denied, unless the majority of the HDC present at a meeting agrees to waive this requirement.
- 6.10 RECONSIDERATION OF A DENIED APPLICATION: An applicant may request the HDC to reconsider its decision on an application. Such request may be made before the end of the meeting at which the decision was made, or afterwards in writing within a period of one (1)

year from the date of the decision. The order of business for reconsideration of applications for Certificates of Appropriateness which have previously been denied shall be as follows:

- A. The Chair shall entertain a motion from a member of the HDC that the applicant be allowed to present evidence in support of the request for reconsideration. Such evidence shall be limited to that which is necessary to enable the HDC to determine whether or not there has been substantial change in the facts, evidence or conditions relating to the application; provided, however, that the applicant shall be given the opportunity to present any other additional supporting evidence if the HDC decides to reconsider the application.

After receiving the evidence, the HDC shall proceed to deliberate whether or not there has been a substantial change in the facts, evidence or conditions relating to the application which would warrant reconsideration. If the HDC finds that there has been such a change, it shall treat the request as a new application.

SECTION 7 – ENFORCEMENT

- 7.1 **ENFORCEMENT:** Enforcement of HDC jurisdiction and decisions shall be through the Director of the Department of Inspection and Standards, in accordance with Article VIII of the Providence Zoning Ordinance.
- 7.2 **VIOLATIONS:** Any exterior work to a structure or appurtenance within a historic district, which proceeds without a Certificate of Appropriateness from the HDC, or which does not comply with the provisions of a Certificate of Appropriateness, shall be deemed a violation of the Providence Zoning Ordinance (Chapter 1991-29, No. 564). Work in progress or already completed without a Certificate of Appropriateness may be deemed a violation.
- 7.3 **PROCEDURES:**
 - A. Any person may report a violation to the HDC.
 - B. Staff will confirm that the work is a violation and report it to the Department of Inspection and Standards; if the work is in progress, staff will request the Department of Inspection and Standards to issue a stop-work order.
 - C. Whether the work is in progress or already completed, staff will contact the property owner to request that an application for Certificate of Appropriateness be filed within 30 days.
 - D. The HDC shall review the application in accordance with these rules and regulations; any modifications required to bring the work into compliance with the standards and guidelines shall be made conditions of approval, and a deadline for completion shall be set.
 - E. Failure of the property owner to file an application for a Certificate of Appropriateness within thirty (30) days, or to correct the violation as directed within the deadline set by the

HDC, shall cause the matter to be referred to the Department of Inspection and Standards for enforcement.

F. If the HDC issued conditions of approval for work done in violation, staff shall inspect the property to confirm that the violation has been corrected. If so, staff shall inform the Department of Inspection and Standards that the violation may be dismissed.

G. Written records of all violations shall be kept in the HDC's files.

SECTION 8 – AMENDMENTS AND SEVERABILITY

8.1 AMENDMENTS: These rules may be amended at any time by an affirmative vote of the HDC.

8.2 SEVERABILITY: The provisions of these rules and regulations are severable; if any such provision or provisions shall be held invalid or unconstitutional by any decision of any court of competent jurisdiction, such decision shall not impair or otherwise affect any other provision of these rules and regulations.