

**AN ORDINANCE TO AMEND ARTICLE IX, DIVISION 2, SUBDIVISION III OF CHAPTER 48 TO PROVIDE PENALTY AND ENFORCEMENT PROVISIONS RELATING TO NEIGHBORHOOD CONSERVATION DISTRICTS**

---

**#4696**

**Sponsor:**

**Council  
Member  
Freel**

**Co-Sponsor:**

**Council  
President  
Shabazz**

**WHEREAS**, Neighborhood Conservation District (“NCD”) designation protects and preserves unique physical features, design characteristics, streetscapes and architecture of older neighborhoods in the City which contribute to the historic and cultural resources of the City; and

**WHEREAS**, NCD designation allows for modern day growth and revitalization of older neighborhoods while protecting the neighborhood’s distinctive qualities; and

**WHEREAS**, unlawful demolition and incompatible construction and alteration pose a threat to an NCD’s character defining features and history; and

**WHEREAS**, Council of the City of Wilmington deems it necessary and proper to amend Chapter 48 of the Wilmington City Code to provide specific enforcement and penalty provisions for violations of code requirements relating to NCDs in order to deter such unlawful conduct.

**NOW, THEREFORE, THE COUNCIL OF THE CITY OF WILMINGTON HEREBY ORDAINS:**

**SECTION 1.** Chapter 48 of the Code is hereby amended by adding sections 48-428, 48-429 and 48-430 to read as follows:

**Sec. 48-428. – Enforcement of approved work.**

The building code official, or other authorized officer or employee of the department of licenses and inspections, and the planning department shall review the progress and status of work approved by the planning department or DRPC. The building code official may call upon planning department staff to provide the necessary technical assistance to ascertain and construe recommendations and conditions issued by

the commission. The planning department shall provide reports to DRPC as necessary to assure compliance with the provisions of this subdivision and the conditions of any certificate of appropriateness. Work performed outside of or inconsistent with a certificate of appropriateness or DRPC recommendations shall be a violation of this subdivision.

**Sec. 48-429. - Unauthorized work.**

Unless DRPC failed to take action as provided in sec. 48-416, work performed within a Neighborhood Conservation District without the required approval from either the planning department or DRPC is prohibited and shall be a violation of this subdivision. Properties where such unauthorized work has been performed shall be referred by the planning department to DRPC. DRPC shall determine whether remedial action is required to ensure the purposes set forth in sec. 48-422 of this subdivision are met. To that end, DRPC may order the removal of any unauthorized work; the replacement of unapproved materials used; the restoration of an original architectural element to its prior condition, or any combination of the foregoing. The property owner shall be responsible for any remedial action ordered by DRPC. Failure to comply with any remedial action ordered by DRPC shall be a violation of this subdivision.

**Sec. 48-430. - Penalties.**

- (a) *Generally.* With the exception of subsection (b) below, for any violation of the provisions of this subdivision, the owner, authorized agent, lessee or contractor of the building, structure, landmark or premises where such violation has been committed or shall exist, and the owner, authorized agent, contractor, lessee or tenant of any part of a building or premises in which a part of such violation has been committed or shall exist, and any other person who knowingly commits, takes part in, aids or assists in such violation, or who maintains any building or premises in which any such violation shall exist, for each and every violation and for each and every day that such violation continues shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than \$250.00 or more than \$1,000.00 for the first offense, not less than \$1,000.00 or more than \$2,500.00 for the second offense, and not less than \$1,000.00 or more than \$5,000.00 for the third and subsequent offenses. Any such fines and penalties shall be in addition to, and not in lieu of, any other fines, penalties and remedies provided by law for such cases.
- (b) *Demolition without permit.* A property owner who causes to be demolished, in part or whole, a building or structure subject to the provisions of this subdivision without first having been issued a demolition permit shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than \$5,000.00, which shall not be suspended.

**SECTION 2.** This ordinance shall be deemed effective upon signing by the Mayor.

First Reading..... August 22, 2019  
Second Reading..... August 22, 2019  
Third Reading .....

Passed by City Council,

\_\_\_\_\_  
President of City Council

ATTEST: \_\_\_\_\_  
City Clerk

Approved this \_\_\_\_ day of \_\_\_\_\_, 2019

\_\_\_\_\_  
Mayor

**SYNOPSIS:** This Ordinance amends Chapter 48, Article IX, Division 2, Subdivision III of the Wilmington City Code to provide penalty and enforcement provisions for violations of code requirements relating to Neighborhood Conservation Districts. Such provisions include, but are not limited to, the imposition of fines, removal of work undertaken without the appropriate authorization(s), restoration of original elements, and replacement of unauthorized materials.