

- *The Houston preservation code* –

Criminal prosecutions... **finer up to \$500 a day per violation.** Homeowners can also be ordered to *reverse* repairs, pushing the cost far higher than any fines assessed.

Do you really want to worry about how the city might punish you if you make what you believe are minor repairs to your home but city inspectors think exceed what the ordinance allows?

(The information below was prepared by attorney Alex Liber-Alessie, a G.O. resident at 428 W. 33rd St.)

HISTORIC PRESERVATION STATUTORY CONTROLS

-**Enforcement actions against homeowners** for alleged prohibited actions are deemed “offense[s]”, subject to criminal “prosecution[s]” – See: Sections 33-203 & 33-236

-**Prosecution includes prosecuting homeowners:**

- for each alleged violation homeowner “shall be guilty of a misdemeanor [a crime] and upon conviction shall be punished by a fine of ... \$500.00. The finer are imposed each day ... any violation continues [and] shall constitute a separate offense”.
- to “enjoin or otherwise cause abatement of any violations”.
- for “damages”
- mandatory injunctive orders “require[ing] restoration or reconstruction”, i.e. “mandatory repairs” – See: Sections 33-203

-**Prosecution of alleged violations includes “presumption” of law in favor of government** that any “alteration, rehabilitation, restoration, construction, relocation or demolition of a building, structure, object, or site ... without a certificate of appropriateness ... adversely affects the structural, physical or visual integrity of the building, structure, object or site. See: 33-203

-**Micro-Controls Over Homeowners** “shall include, but is not limited to”:

- “changing ... kind, type or size of roofing”
- “changing ... kind, type or size of siding”
- “changing ... or adding exterior doors, door frames”
- “changing ... or adding windows, window frames”
- “changing ... or adding fences”
- “changing ... or adding railings, columns, beams”
- “changing ... or adding porches, steps”
- “changing ... or adding balconies”
- “dismantling, moving or removing any exterior feature” See: Section 33-20

-**90 Day Waiver can be removed by amendment.** Amendments or changes to the ordinance can be made without a petition, but rather; by application initiated by HAHC, the Planning Commission, with the final action resting with the city council. See: 33-227

-**“Violators” can be ordered to make “Mandatory Repairs”.** Even with a mandatory repair order resulting from a citation and court order, repairs cannot be undertaken by the homeowner until he or she first obtains a **“Certificate of Appropriateness”** from the Planning Official. See: 33-249

-**Prior to issuance of 90 Day Waiver Certificate, homeowner is required to “consult with Department staff to explore alternatives to the actions proposed by the applicant”.** In other words, no consultation, no waiver certificate. See 33-250

-**90 Day Waiver Period does not begin until homeowner has first filed a properly completed application for a Certificate of Appropriateness** with the building official. See 33-238

-**The Act of initiating an application for Historic District subjects proposed area to requirements of Certificate of Appropriateness and Mandatory Controls.** See: 33-223