

CHAPTER 157: HISTORIC PRESERVATION

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§ 157.01 PURPOSE AND DECLARATION OF PUBLIC PROPERTY.

(A) The Board of Commissioners declares as a matter of public policy that the preservation, protection, and use of landmarks and historic districts is a public necessity because they have a distinct character or a special historic, architectural, or cultural value and thus serve as visible reminders of the history and heritage of this city, state and nation. The Board of Commissioners finds that this chapter benefits all the residents of the city and all the owners of property and declares as a matter of public policy that this chapter is required in the interest of the health, prosperity, safety, welfare and economic well-being of the people.

(B) The purpose of this chapter is to effect the goals as set forth in the above findings and declaration of public policy and specifically, but not exclusively, to:

(1) Effect and accomplish the preservation, protection and use of historic districts and landmarks having a distinctive character or a special historic, architectural or cultural value to this city, state and nation;

(2) Promote the educational, cultural, economic and general welfare of the people and safeguard the city's history and heritage as embodied and reflected in such landmarks and districts;

(3) Stabilize and improve property values in such districts and in the city as a whole;

(4) Provide a review process for the preservation and continued use of designated historic properties;

- (5) Foster civic pride in the value of notable accomplishments of the past;
 - (6) Strengthen the economy of the city;
 - (7) Protect and enhance the city's attractions to residents, tourists and visitors and serve as a support and stimulus to business and industry; and
 - (8) Enhance the visual and aesthetic character, diversity and interest of the city.
- (Ord. 0-90-028, passed 8-27-90)

§ 157.02 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ALTERATION. Any construction on or change to the exterior of a designated historic property when the construction or change is visible to the public and may be seen by a person located on a public street. An alteration shall include construction or changes on lots containing landmarks and lots within a historic district. An alteration shall not include painting and ordinary maintenance repair.

BOARD. The Pikeville Historic Preservation Board.

CERTIFICATE OF APPROPRIATENESS. The document, issued by the Historic Preservation Board, which gives its approval for work to be done on a designated historic property. A certificate of appropriateness must be issued prior to the issuance of a building permit. A certificate of appropriateness may contain conditions relating to the proposed work.

CERTIFIED LOCAL GOVERNMENT. A government meeting the requirements of the National Historic Preservation Act Amendments of 1980 (P.L. 96-515) and the implementing regulations of the U.S. Department of the Interior and the Kentucky Heritage Council.

DEMOLITION. Any act that destroys in whole or in part a designated historic property.

DESIGNATED HISTORIC PROPERTY. A landmark or a building or structure in a historic district. A landmark or historic district shall be established by the Board of Commissioners. The designated historic property shall include all lots within a historic district and the entire lot containing a landmark.

HISTORIC DISTRICT. An area of architectural, historical or cultural significance to the city, state or nation that meets one (1) or more of the criteria contained in § [157.06](#) and has been designated by the city. The district shall include all lots within the boundaries of the district.

LANDMARK. A building, a structure, an object or a location of architectural, historical or cultural significance to the city, state or nation that meets one (1) more of the criteria contained in § [157.06](#) and has been designated by the city. A landmark shall include a historical site that was the location of a significant historical event. A landmark shall

include the entire lot containing a landmark including related buildings and structures and the land that provides the grounds, the premises and the setting for the landmark.

ORDINARY MAINTENANCE AND REPAIR. Any work, the purpose of which is to correct deterioration or to prevent deterioration of a designated historic property. The work shall restore the property to its appearance prior to deterioration or shall result in the protection of its present appearance. The work shall involve the use of the same building materials or available materials that are as close as possible to the original.

(Ord. 0-90-028, passed 8-27-90)

§ 157.03 PIKEVILLE HISTORIC PRESERVATION BOARD.

(A) There is hereby established the Pikeville Historic Preservation Board. The Board shall consist of five (5) members appointed by the Mayor and approved by the Board of Commissioners. The members shall have demonstrated interest in historic preservation, and at least two (2) members shall have training or experience in a preservation-related profession, architecture, history, archaeology, architectural history, planning or related fields. When one (1) or two (2) professional members are not available, the Mayor may appoint other persons interested in historic preservation to serve. When the Board reviews an issue that is normally evaluated by a professional member and the field is not represented on the Board, the Board shall seek expert advice before rendering its decision. In making appointments, the Mayor shall seek to include a member who is active in real estate. Members of the Board shall serve without compensation, but they shall be reimbursed for expenses incurred in the performance of their duties in accordance with the rules adopted by the Board.

(B) The terms of office of the members shall be four (4) years, except the terms of two (2) members of the original Board shall expire after two (2) years and the terms of two (2) members of the original Board shall expire after one (1) year. Each member shall serve until the appointment and qualification of his or her successor. When a vacancy occurs during a term of office, it shall be filled within sixty (60) days, and the person selected shall be appointed for the unexpired portion of the term.

(C) The Board shall each year elect members to serve as Chairman, Vice Chairman and Secretary. The Chairman shall preside at meetings of the Board and shall have the right to vote. The Chairman shall be the spokesman for the Board in presenting its policy to the city government and to the public. In the absence or disability of the Chairman, the Vice Chairman shall perform his or her duties. The Secretary shall prepare the minutes of the Board's meetings which shall be available for public inspection. The Board shall submit periodic reports to the Commission, the frequency and content of which shall be determined by the Commission.

(D) No members of the Board shall vote on any matter that may affect the property, income or business interests of that member.

(E) The Board, in addition to any appropriations made by the city, shall have the right to receive, hold and spend funds which it may legally receive from any source both in and out of the Commonwealth for the purpose of carrying out the provisions of this

chapter. The Board shall at all times fully comply with the Kentucky Model Procurement Code as adopted by the Commission.

(Ord. 0-90-028, passed 8-27-90; Am. Ord. 07-0-002, passed 2-26-07; Am. Ord. 07-0-005, passed 2-26-07)

§ 157.04 POWERS AND DUTIES OF THE BOARD.

(A) In addition to the powers and duties stated elsewhere, the Board shall take actions necessary and appropriate to accomplish the purposes of this chapter. These actions may include, but are not limited to:

(1) Conducting a survey of historic buildings and areas and preparing a plan for their preservation;

(2) Recommending the designation of historic districts and individual landmarks;

(3) Regulating changes to designated historic property, including proposed alterations that are visible to the public; demolitions; relocations, vacant lots within a historical district and new construction;

(4) Adopting guidelines for changes to designated historic property;

(5) Working with and advising the federal, state and county governments and other parts of city government;

(6) Advising and assisting property owners and other persons and groups, including neighborhood organizations who are interested in historic preservation;

(7) Initiating plans for the preservation and rehabilitation of individual historic buildings; and

(8) Undertaking educational programs including the preparation of publications, the placing of historic markers and the recognition of successful rehabilitation projects.

(B) In making its survey of historic buildings and areas, the Board shall conduct this work in accordance with the guidelines of the Kentucky Heritage Council. The Board shall provide that its survey and preservation plan shall be maintained and continued. The Board shall use the preservation plan to assist the city in its overall planning efforts.

(C) The Board shall adopt and make public rules for the transaction of its business and shall hold monthly public meetings and special public meetings, when necessary. All meetings shall have a previously available agenda and shall comply with the Kentucky Open Meeting Statute (KRS 61.805). A simple majority of the membership shall be required for decisions involving historic buildings and areas.

(D) The Board shall prepare and keep on file, available for public inspection, a written annual report of its activities, cases, decisions, qualifications of members and other work.

(E) The Board shall receive assistance in the performance of its responsibilities from a city staff member whose assigned duties shall include this work with the Board and who shall have expertise in historic preservation or a closely-related field. Other city staff

members may be asked to assist the Board by providing technical advice or helping in the administration of this chapter.

(F) The Board may encourage plans for the preservation and rehabilitation of individual historic buildings. The Board shall, on a regular basis, give recognition to owners and tenants who maintain or rehabilitate their historic buildings with care and thus contribute to the preservation of the history of Pikeville.

§ 157.05 NOMINATIONS TO THE NATIONAL REGISTER OF HISTORIC PLACES.

(A) To participate in the Certified Local Government Program, the city shall initiate all local nominations to the National Register of Historic Places and shall request the Commission and the Board to submit recommendations on each proposed nomination to the National Register. The Commission and the Board shall obtain comments from the public that shall be included in their National Register recommendations. Within sixty (60) days of the receipt of a nomination from a private individual or the initiation of a nomination by the city, the city shall inform the Kentucky Heritage Council and the owner of the property of the two (2) recommendations regarding the eligibility of the property. If the Commission and the Board do not agree, both opinions shall be forwarded in the city's report. If both the Commission and the Board recommend that a property not be nominated, the Kentucky Heritage Council shall inform the property owner, the State Review Board and the State Historic Preservation Officer, and the property will not be nominated unless an appeal is filed with the State Historic Preservation Officer.

(B) If either or both the Commission and the Board agree that a property should be nominated, the nomination will receive a preliminary review by the Kentucky Historic Preservation Review Board. The Review Board shall make a recommendation to the State Historic Preservation Officer who shall decide whether to forward the nomination to the U.S. Secretary of the Interior who shall make the decision on listing the property on the National Register. The Commission, the Board or the property owner may appeal the final decision by the State Historic Preservation Officer.

(C) In the development of the Certified Local Government Program, the city may ask the Board to perform other responsibilities that may be delegated to the city under the National Historic Preservation Act.

§ 157.06 DESIGNATION OF LANDMARKS AND HISTORIC DISTRICTS.

(A) The Board shall recommend to the Board of Commissioners the designation of individual landmarks and historic districts, and the Board of Commissioners shall make these designations by the enactment of ordinances. Each designation of a landmark shall include its entire lot including related buildings and structures and the land that provides the grounds, the premises and the setting for the landmark.

(B) Consideration of the designation of a landmark or a historic district may be originated by the Board or by the filing of an application for designation by a property owner, any resident of the city or any organization in the city. A person or an organization proposing a designation shall give the Board the names and addresses of the owners of

the affected property and the owners of all adjoining property as listed on the tax rolls of the city.

(C) The Board shall assemble information about a property or district being considered for designation and shall schedule a public hearing on the proposed designation. Advertised notice of the hearing shall be given, including conspicuous posting on the property or in the proposed district. At least fifteen (15) days prior to the public hearing, written notice shall be given by registered mail to the owners of property under consideration and the owners of all adjoining property. Written notice shall be considered sufficient when it is mailed to the person listed on the tax rolls of the city.

(D) Before its public hearing on the first designation in the city, the Board shall adopt general guidelines that will apply to the city's landmarks and historic districts and will assist owners in the preservation and rehabilitation of their property. The general guidelines shall include to the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings and other guidelines that will apply to all designated property in the city. Before each public hearing on a designation, the Board may adopt additional guidelines that will supplement the general guidelines and will apply to the property under consideration if it is designated. The guidelines shall not limit new construction to any one architectural style, but shall seek to preserve the character and, integrity of the landmark or the historic district. The guidelines shall suggest changes that would be appropriate for landmarks or for property in historic districts. After a designation, the Board may expand or amend the guidelines it has adopted provided it holds a public hearing on the changes and submits the proposed changes to the Board of Commissioners for its comments.

(E) Owners and any interested parties may present testimony and evidence at the public hearing on the designation. The record on the designation may also include letters received by the Board.

(F) A landmark or historic district shall qualify for designation when it meets one (1) or more of the following criteria which shall be discussed in a Board report making its recommendations to the Board of Commissioners:

- (1) Its value as a visible remainder of the cultural heritage of the city, state or nation;
- (2) Its location as a site of a significant local, state or national event;
- (3) Its identification with a person or persons who significantly contributed to the development of the city, state or nation;
- (4) Its identification as the work of a builder, designer or architect whose work has influenced the development of the city, state or nation;
- (5) Its value as a building that is recognized for the quality of its architecture and that retains sufficient elements showing its architectural significance;
- (6) Its value as a building with distinguishing characteristics of an architectural style that are significant for the study of a period, method of construction or use of materials;

(7) Its character as a geographically definable area possessing a significant concentration of buildings that are well designed and other structures all of which are united by past events or by a plan or physical development; or

(8) Its character as an established and geographically definable neighborhood, united by culture, architectural styles or physical development.

(G) After evaluating the testimony and evidence at its public hearing, and all letters, survey information and other material it has assembled, the Board shall make its recommendation to the Board of Commissioners with a written report on the property or area under consideration.

(H) The Joint Planning Commission shall then report on the relationship between the proposed designation and existing and future plans for the development of the city. If the Joint Planning Commission approves of the proposed designation; it shall amend the comprehensive plan to include the proposed designation and shall recommend a change in the zoning map to show the proposed historic designation. The Joint Planning Commission shall forward its comments, the Comprehensive Plan amendment, and the zoning map change to the Board of Commissioners. If the Joint Planning Commission does not approve the proposed designation, it shall forward its comments to the Board of Commissioners.

(I) The Board of Commissioners shall approve, modify or disapprove the proposed designation within sixty (60) days after receiving the recommendation of the Board and the material from the Joint Planning Commission. If the Board of Commissioners decides to make a designation and no comprehensive plan amendment has been adopted and no zoning map change has been recommended, the Board of Commissioners shall request the Joint Planning Commission to reconsider its earlier decision and shall provide that the designation shall take effect after these preliminary steps have been approved.

(J) A historic district shall be an overlay zoning district as provided in the Zoning Code and shall be subject to the use and development regulations and other rules of its underlying zoning district. A landmark shall be subject to the use and development regulations and other rules of its zoning district. When there is a conflict between this chapter and the use and development regulations and other rules of the zoning district, the provisions of this chapter shall be applied.

(K) The Board shall notify each owner of the decision relating to his property and shall arrange that the designation of a property as a landmark or as a part of a historic district be recorded in the land records of the county. The Board shall ask that fees be waived for the city documents recording the designations, the Board shall also give notice of the decision to the government offices in the city and county which shall retain them for future reference.

(L) The amendment or rescission of any designation shall be accomplished through the same steps as were followed in the original designation.

§ 157.07 REVIEW OF CHANGES TO LANDMARKS AND PROPERTY IN HISTORIC DISTRICT.

(A) A certificate of appropriateness from the Board shall be required before a person may undertake the following actions affecting a landmark or a property in a historic district:

- (1) Alteration of the exterior part of a designated historic property that is visible to the public and may be seen by a person located on a public street;
- (2) New construction;
- (3) Demolition; or
- (4) Relocation.

(B) The Building Inspector shall forward to the Board every application for a permit that would authorize an exterior alteration visible to the public, or any new construction, demolition or relocation affecting a landmark or a property in a historic district. When a person wishes to undertake an exterior alteration visible to the public affecting a landmark, or a property in a historic district that does not require a building permit, that person shall apply directly to the Board. The applicant shall provide the Board, where applicable, with drawings of the proposed work, photographs of the existing building and adjacent properties, and information about the building materials to be used.

(C) The Board shall hold a public hearing on each certificate of appropriateness within thirty (30) days after a completed application is received by the Board. The Board shall make a decision on the application within forty five (45) days after the receipt of a completed application provided that the Board may extend the time for decision for an additional sixty (60) days when the application is for demolition or new construction. The Board shall approve or disapprove each application, and it shall give its reasons for its decision using the criteria contained in this section and its guidelines. The Board may suggest modifications to an application and may then approve a certificate of appropriateness providing for revisions in the plans submitted. If the Board fails to decide on an application within the specified time period, the application shall be deemed approved. Applicants shall be given notice of the public hearings and meetings relating to their application and shall be informed of the Board's decision. Advertised notice of the hearing shall be given, including conspicuous posting on the property.

(D) (1) In making a decision on an application, the Board shall use the general guidelines and the guidelines it has adopted for that landmark or historic district. The Board shall consider:

- (a) The effect of the proposed work on the landmark or the property upon which such work is to be done;
- (b) The relationship between such work and other property in the historic district.

(2) In evaluating the effect and the relationship, the Board shall consider historical and architectural significance, architectural style, design, arrangement, texture, materials and color. The certificate from the Board shall not relieve the property owner from complying with the requirements of other state and local laws and regulations.

(E) In making a decision on an application, the Board shall be aware of the importance of finding a way to meet the current needs of the applicant. The Board shall also recognize the importance of approving plans that will be reasonable for the applicant to carry out. Before an applicant prepares his plans, he may bring a tentative proposal to the Board for its comments. The Board shall not regulate the color of paint used on designated historic properties, but it may prepare and distribute material on paint colors appropriate for different types and styles of buildings. The Board shall strongly consider the cost in the community of obtaining the requirements set forth by the Board in regard to the plans of the applicant as compared with the cost of conventional construction.

(F) When an applicant wishes to demolish a landmark or a building or structure in a historic district, the Board shall negotiate with the applicant to see if an alternative to demolition can be found. The Board may ask interested individuals and organizations for assistance in seeking alternative to demolition and in obtaining estimates on rehabilitation costs for the threatened building. After its public hearing, the Board may decide that a building or structure may be demolished because it does not contribute to the historic district or the landmark. On all other demolition applications, the Board shall study the question of economic hardship for the applicant and shall determine whether the landmark or the property in the historic district can be put to reasonable beneficial use without the approval of the demolition application. In the case of an income-producing building, the Board shall also determine whether the applicant can obtain a reasonable return from his existing building. The Board may ask applicants for additional information to be used in making these determinations. If economic hardship or the lack of a reasonable return is not proved, the Board shall deny the demolition application unless the Board finds grounds to grant the demolition application under the points contained in division (D) of this section.

(G) (1) When an applicant wishes to move a landmark or a building or structure in a historic district or wishes to move a building or structure to a landmark or to a property in a historic district, the Board shall consider:

- (a) The contribution the building or structure makes to its present setting;
- (b) Whether there are definite plans for the site to be vacated;
- (c) Whether the building or structure can be moved without significant damage to its physical integrity; and
- (d) The compatibility of the building or structure to its proposed site and adjacent properties.

(2) These considerations shall be in addition to the points contained in division (D) of this section.

(H) In the event work is being performed without the required certificate of appropriateness, the Board shall ask that a stop work order be issued. In the event work is being performed that is not in accordance with the certificate approving the proposed work, the Board shall ask that a stop work order be issued. All work shall cease on the designated historic property, and no additional work shall be undertaken as long as the

stop work order shall continue in effect. The city can apply in Circuit Court for an injunction to enforce its stop work order.

(I) The applicant shall have the right to appeal to the Circuit Court from a decision of the Board on an application for a certificate of appropriateness.

(J) A Certificate of Appropriateness shall remain valid for one year after it is issued. Work is required to start before the end of the one-year period. If actual work has not commenced within one year, the certificate is invalid. Actual work is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition is required preparatory to rebuilding, such excavation or demolition shall be deemed to be actual work provided that it shall be carried out diligently.

§ 157.08 EMERGENCY CONDITIONS.

In any case where the Building Inspector determines that there are emergency conditions dangerous to life, health or property affecting a landmark or a property in a historic district, he may order the remedying of these conditions without the approval of the Board. The Building Inspector shall promptly notify the Chairman of the Board of the action being taken.

§ 157.09 MAINTENANCE AND REPAIR OF LANDMARKS AND PROPERTY IN HISTORIC DISTRICTS.

(A) Ordinary maintenance and repairs may be undertaken without a certificate of appropriateness provided this work on a landmark or a property in a historic district does not change its exterior appearance that is visible to the public. The work shall involve the use of the same building materials or available materials that are as close as possible to the original.

(B) (1) Every person in charge of a landmark or a property in a historic district shall keep in good repair:

(a) All of the exterior portions of such buildings or structures; and

(b) All interior portions thereof which, if not so maintained, may cause such buildings or structures to deteriorate or to become damaged or otherwise to fall into a state of disrepair.

(2) The purpose of this provision is to prevent a person from forcing the demolition of his building by neglecting it and permitting damage to the building by weather or vandalism. No provision in this chapter shall be interpreted to require an owner or tenant to undertake an alteration or to restore his building to its original appearance.

(C) The Board shall request a meeting with a property owner when his landmark or his building in a historic district is in poor repair, and the Board shall discuss with the owner ways to improve the condition of his property. After this step, the Board may request the Building Inspector to take action to require correction of defects in any building or structure designated under this chapter so that such building or structure shall be preserved in

accordance with the purposes of this chapter. Action taken by the city may include boarding up the doors, windows and other parts of the building and additional steps to stabilize walls, roofs and other parts of the building or structure.

(D) The provisions of this section shall be in addition to all other provisions of the Kentucky Building Code requiring buildings and structures to be kept in good repair.

§ 157.10 VACANT LOTS IN A HISTORICAL DISTRICT

The Board shall request a meeting with the owner of each vacant lot in a historic district, and shall discuss with each owner ways to maintain the vacant lot so that it will contribute to the preservation of the historic district. The Board may prepare plans to improve the appearance of a vacant lot in the historic district.

§ 157.11 CONFORMITY WITH THE CERTIFICATE OF APPROPRIATENESS

All work performed pursuant to a Certificate of Appropriateness shall conform to the provisions of such Certificate. It shall be the responsibility of the Building Inspector to inspect from time to time any work being performed to assure such compliance. In the event the work is being performed which is not in accordance with such Certificate, the Police Chief or the City Codes Enforcement Officer shall issue a Stop Work Order and any law enforcement office may cite violators in District Court. All work shall cease on the designated property. No additional work shall be undertaken as long as such Stop Work Order shall continue in effect. The City may apply in Circuit Court for an injunction to enforce its Stop Work order.

§ 157.12 DESIGNATION OF COMMERCIAL AND RESIDENTIAL DISTRICTS AND INDIVIDUAL LANDMARKS

Upon recommendation of the Board, the Commission for the City of Pikeville may from time to time adopt by ordinance historical districts and individual landmarks which shall be subject to this ordinance.

§ 157.13 ADOPTION OF HISTORICAL PRESERVATION DESIGN AND REVIEW GUIDELINES.

The historical preservation design and review guidelines prepared by the Historical Preservation Board are hereby adopted at length, as if fully set forth herein, as the enforcement guidelines and regulations for this chapter.

§ 157.99 PENALTY.

(A) Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor and shall be fined not less than fifty dollars (\$50.00), nor more than five hundred dollars (\$500.00) for each offense. Each day's violation shall constitute a separate offense.

(B) Violation of a stop work order issued pursuant to § [157.99](#) shall be a misdemeanor offense punishable by imprisonment not to exceed one (1) year and shall be fined not

less than fifty dollars (\$50.00), nor more than five hundred dollars (\$500.00) for each offense. Each day's violation shall constitute a separate offense.

(C) Enforcement cost including legal fees and expense shall be assessed against the violator and if the violator is an owner of the property shall become a lien upon the property.