

CHAPTER 160: HISTORIC DISTRICTS

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GENERAL PROVISIONS

§ 160.01 PURPOSE.

The purpose of this chapter is, as a matter of public policy, to carry out the following:

- (A) Effect and accomplish the preservation, protection, and use of historic districts, landmarks, and landmark sites having a special or distinctive character or special historic, architectural, aesthetic, or cultural interest and value to this city, state, and nation.

(B) 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, sites, and districts.

(C) Stabilize and improve property values in the city as a whole, and strengthen the economy.

(D) Foster civic pride in the value of notable accomplishments of the past.

(E) Protect and enhance the city's attractions to residents, tourists, and visitors, and serve as a support and stimulus to business and industry.

(F) Enhance the visual and aesthetic character, diversity, and interest of the city.

(Minute book 00, page 104, passed 10-7-86)

§ 160.02 DEFINITIONS.

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

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

"COMMISSION." The Middlesborough Historic District Commission.

"DEMOLITION." Any act destroying in whole or in part a landmark or a building or structure deemed by the Commission to be of historic significance.

"HISTORIC DISTRICT." An area meeting one or more of the criteria contained in § 160.16 of this chapter.

"LANDMARK." A building, structure, or site meeting one or more of the criteria contained in § 160.16 of this chapter.

"LANDMARK SITE." The land on which a landmark and related buildings and structures are located, and the land that provides the grounds, the premises, or the setting for a landmark.
(Minute book 00, page 104, passed 10-7-86)

HISTORIC DISTRICT COMMISSION

§ 160.05 ESTABLISHMENT; MEMBERSHIP; TERMS OF OFFICE.

(A) The Middlesborough Historic District Commission is hereby established.

(B) The Commission shall consist of five members appointed by the Mayor and approved by the City Council.

(C) The members of the Commission shall have demonstrated an interest in historic preservation, and at least two members of the Commission shall have training or experience in a preservation-related profession, architecture, history, archaeology, architectural history, planning, or related fields. In making appointments, the Mayor shall seek to include a member who is active in real estate, and all members must own property within the city. Members of the Commission shall serve without compensation; however, they shall be reimbursed for expenses incurred in the performance of their duties in accordance with the rules adopted by the Commission and approved by the City Council.

(D) The terms of office for members of the Commission shall be three years, except the terms of two members of the original commission shall expire after two years, and the terms of two members shall expire after one year. Each member shall serve until the appointment and qualification of his successor. When a vacancy occurs during a term of office, it shall be filled within 60 days, and the person selected shall be appointed for the unexpired portion of the term.

(Minute book 00, page 104, passed 10-7-86)

§ 160.06 OFFICERS.

The Commission shall each year elect members to serve as chairperson and vice chairperson. The Commission shall also select a secretary to prepare the minutes of the Commission's meetings, which shall be available for public inspection.

(Minute book 00, page 104, passed 10-7-86)

§ 160.07 VOTING POLICY.

No member of the Commission shall vote on any matter that affects the property, income, or business interests of that member.

(Minute book 00, page 104, passed 10-7-86)

§ 160.08 FUNDING.

The Commission, 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 and every source, both in and out of the state, for the purpose of carrying out the provisions of this chapter.

(Minute book 00, page 104, passed 10-7-86)

§ 160.09 PROCEDURES.

(A) The Commission 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 state open meeting statute, KRS 61.805. A simple majority of the membership shall be required for decisions involving historic buildings and areas.

(B) The secretary of the Commission 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.

(C) The Commission shall receive assistance in the performance of its responsibilities from a city staff member or designee, whose assigned duties shall include this work with the Commission, who shall have expertise in historic preservation or a closely-related field. Other city staff members may be asked to assist the Commission by providing technical advice or helping in the administration of this chapter.

(Minute book 00, page 104, passed 10-7-86)

§ 160.10 ACTIONS.

(A) The Commission shall take action necessary and appropriate to accomplish the purpose of this chapter. These actions may include, but are not limited to, the following:

(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 property, including proposed alterations, that are visible to the public.

(4) Demolitions, relocations, and new construction.

(5) Adopting guidelines for changes to designated property.

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

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

(8) Each Commission member shall attend at least one informational or educational meeting per year that is approved by the Kentucky Heritage Council.

(B) In addition, these actions may include initiating plans for the preservation and rehabilitation of individual historic buildings, and undertaking educational programs, including the preparation of publications and the placing of historic markers.

(C) In the development of the certified local government program, the city may ask the Commission to perform other responsibilities that may be delegated to the city under the National Historic Preservation Act.

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

(E) The Commission shall recommend to the City Council the designation of individual landmarks and landmark sites, and historic districts. The City Council will review and vote on these designations.

(Minute book 00, page 104, passed 10-7-86)

Cross-reference:

Procedure for designation of a landmark or historic district,
see § 160.17

DESIGNATION OF A LANDMARK OR HISTORIC DISTRICT

§ 160.15 NOMINATIONS TO NATIONAL REGISTER OF HISTORIC PLACES.

(A) The city shall initiate all local nominations to the National Register of Historic Places, and shall request the Mayor and the Commission to submit recommendations on each proposed nomination to the National Register. The Mayor and the Commission shall obtain comments from the public that shall be included in their National Register recommendations.

(B) Within 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 recommendations regarding the eligibility of the property. If the Mayor and the Commission do not agree, both opinions shall be forwarded in the city's report. If both the Mayor and the Commission 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.

(C) If either or both the Mayor and the Commission 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 decides 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

Mayor, the Commission, or the property owner may appeal the final decision by the state historic preservation officer.
(Minute book 00, page 104, passed 10-7-86)

§ 160.16 CRITERIA FOR A LANDMARK OR HISTORIC DISTRICT.

A landmark or historic district shall qualify for designation when it meets one or more of the following criteria, which shall be discussed in a Commission report making its recommendations to the City Council:

(A) Its value as a reminder of the cultural or archeological heritage of the city, state, or nation.

(B) Its location as a site of a significant local, state, or national event.

(C) Its identification with a person or persons who significantly contributed to the development of the city, state, or nation.

(D) Its identification as the work of a master builder, designer, or architect whose individual work has influenced the development of the city, state, or nation.

(E) Its value as a building that is recognized for the quality of its architecture, and that retains sufficient elements showing its architectural significance.

(F) Its distinguishing characteristics of an architectural style valuable for the study of a period, method of construction, or use of indigenous materials.

(G) Its character as a geographically definable area possessing a significant concentration or continuity of sites, buildings, objects, or structures united by past events, or aesthetically by plan or physical development.

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

(Minute book 00, page 104, passed 10-7-86)

§ 160.17 PROCEDURE FOR DESIGNATION OF A LANDMARK OR HISTORIC DISTRICT.

(A) Consideration of the designation of a landmark, landmark site, or historic district may be originated by the Commission, 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 Commission 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.

(B) The Commission 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 15 days prior to the public hearing, written notice shall be given by 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.

(C) Before its first public hearing on a designation, the Commission 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 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 Commission 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 Commission 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 City Council for its comments.

(D) After evaluating the testimony at its public hearing, survey information, and other material it has assembled, the Commission shall make its recommendation to the City Council with a written report on the property or area under consideration. The report shall contain information about structures and significant landscape components which have been identified for inclusion in the proposed designation.

(E) The Planning and Zoning Commission shall then report on the relationship between the proposed designation, and existing and future plans for the development of the city.

(1) If the Planning and Zoning 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 Planning and Zoning Commission shall forward its comments, the comprehensive plan amendment, and the zoning map change to the City Council.

(2) If the Planning and Zoning Commission does not approve of the proposed designation, it shall forward its comments to the City Council.

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

(G) The Commission 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 and upon the official city zoning map. The Commission shall ask that fees be waived for the city documents recording the designations. The Commission shall also give notice of the decision to the government offices in the city and county, which shall retain them for future reference.

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

(Minute book 00, page 104, passed 10-7-86)

ALTERATION, CONSTRUCTION, DEMOLITION, OR RELOCATION

§ 160.25 CERTIFICATE OF APPROPRIATENESS REQUIRED.

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

(1) Alteration of the exterior part of a structure that is visible to the public, and the destruction of a landscape component that is visible to the public.

(2) New construction, demolition, or relocation.

(B) Ordinary repairs and maintenance may be undertaken without a certificate of appropriateness, provided this work on a landmark, a landmark site, or a property in a historic district does not change its exterior appearance that is visible to the public.

(Minute book 00, page 104, passed 10-7-86) Penalty, see § 160.99

§ 160.26 APPLICATION FOR CERTIFICATE; STOP WORK ORDER.

(A) The Building Inspector shall forward to the Commission every application for a permit that would authorize an exterior alteration visible to the public, new construction, demolition, or relocation affecting a landmark, landmark site, or property in a historic district. The Building Inspector shall give the applicant a form from the Commission requesting additional information from the applicant.

(1) The applicant shall provide, where applicable, drawings of the proposed work, photographs of the existing building, structure, or site and adjacent properties, and information about the building materials to be used.

(2) In the event work is being performed without the required certificate of appropriateness, the Commission will see that a stop work order is issued. In the event work is being performed which is not in accordance with the certificate, the Building Inspector or the City Clerk shall issue a stop work order, and any law enforcement officer may cite violators in district court.

(a) All work shall cease on the designated property. No additional work shall be undertaken as long as the stop work order shall continue in effect.

(b) The city may apply in circuit court for an injunction to enforce its stop work order.

(B) When a person wishes to undertake an exterior alteration visible to the public affecting a landmark, landmark site, or property in a historic district that does not require a building permit, and when a person wishes to cut down a designated tree or a tree on designated property that is visible to the public, that person shall apply directly to the Commission for a certificate of appropriateness.

(1) In the event work is being performed which is not in accordance with the certificate, the Police Chief or the City Clerk shall issue a stop work order, and any law enforcement officer may cite violators to district court.

(2) All work shall cease on the designated property. No additional work shall be undertaken as long as the stop work order shall continue in effect.

(3) The city may apply to the circuit court for an injunction to enforce its stop work order.
(Minute book 00, page 104, passed 10-7-86) Penalty, see § 160.99

§ 160.27 HEARING ON CERTIFICATE.

(A) The Commission shall hold a public hearing on each certificate of appropriateness within 30 days after a completed application is received by the Commission. The Commission shall make a decision on the application within 45 days after the receipt of a completed application, provided that the Commission may extend the time for decision an additional 60 days when the application is for demolition or new construction.

(B) The Commission shall approve or disapprove each application, and it shall give its reasons for its decision, using the criteria contained in this chapter and in its guidelines.

(C) The Commission may suggest modifications to an application, and may then approve a certificate of appropriateness providing for revisions in the plans submitted.
(Minute book 00, page 104, passed 10-7-86)

§ 160.28 DECISION OF COMMISSION.

(A) If the Commission 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 Commission's decision. Advertised notice of the hearing shall be given, including conspicuous posting on the property.

(B) In making a decision on an application, the Commission shall use the general guidelines, and the guidelines it has adopted for that landmark or historic district.

(1) The Commission shall consider the following:

(a) The effect of the proposed work on the landmark or the property upon which the work is to be done; and

(b) The relationship between the work and other structures on the landmark site, or other property in the historic district.

(2) In evaluating the effect and the relationship, the Commission shall consider historical and architectural significance, architectural style, design, arrangement, texture, materials, and color.

(3) The certificate from the Commission shall not relieve the property owner from complying with the requirements of other state and local laws and regulations.

(C) In making a decision on an application, the Commission shall be aware of the importance of finding a way to meet the current needs of the applicant. The Commission 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 Commission for its comments. The Commission shall prepare a list of routine alterations that shall receive immediate approval without a public hearing when an applicant complies with the specifications of the Commission. The list shall include paint colors appropriate for different types of buildings.

(D) In reviewing applications involving signs, the Commission shall use guidelines it has prepared that have been approved by the City Council. Owners and tenants shall apply to the Commission before their signs are made.
(Minute book 00, page 104, passed 10-7-86)

§ 160.29 ALTERNATIVES TO DEMOLITION TO BE SOUGHT.

(A) When an applicant wishes to demolish a landmark, a building or structure on a landmark site, or a building or structure in a historic district, the Commission shall negotiate with the applicant to see if an alternative to demolition can be found.

(B) The Commission may ask interested individuals and organizations for assistance in seeking an alternative to demolition and in obtaining estimates on rehabilitation costs for the threatened building.

(C) After its public hearing, the Commission may decide that a building or structure in a historic district or on a landmark site may be demolished because it does not contribute to the historic district or to the landmark.

(D) On all other demolition applications, the Commission 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.

(1) In the case of an income-producing building, the Commission shall also determine whether the applicant can obtain a reasonable return from his existing building. The Commission may ask applicants for additional information to be used in making these determinations.

(2) These determinations shall be in addition to the points contained in § 160.28(B).

(3) If economic hardship or the lack of a reasonable return is not proved, the Commission shall deny the demolition application, unless the Commission finds grounds to grant the demolition application under the points contained in § 160.28(B). (Minute book 00, page 104, passed 10-7-86)

§ 160.30 RELOCATION OF STRUCTURES.

(A) When the applicant wishes to move a landmark, a building or structure on a landmark site, or a building or structure in a historic district, or wishes to move a building or structure to a landmark site or to a property in a historic district, the Commission shall consider the following:

(1) The contribution the building or structure makes to its present setting.

(2) Whether there are definite plans for the site to be vacated.

(3) Whether the building or structure can be moved without significant damage to its physical integrity.

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

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

(B) The purpose of this section 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 Commission shall request a meeting with a property owner when his landmark or his building in a historic district is in poor repair, and the Commission shall discuss with the owner ways to improve the condition of his property. After this step, the Commission may request the Building Inspector to take action to require correction of defects in any building or structure in accordance with the purposes of this chapter. The 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 a building.

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

(E) The provisions of this chapter shall be in addition to all other provisions of the state building code requiring buildings and structures to be kept in good repair.
(Minute book 00, page 104, passed 10-7-86) Penalty, see § 160.99

§ 160.99 PENALTY.

Any person, corporation, partnership, or association violating any of the provisions of this chapter shall be guilty of a misdemeanor and shall be fined not less than \$50 nor more than \$500 for each offense. Each day's violation shall constitute a separate offense.
(Minute book 00, page 104, passed 10-7-86)