

9.3 HISTORIC DISTRICT & REGULATIONS

Revised 4.16.26

1. Ordinance Purpose.

These historic district and regulation provisions are established so that appropriate measures may be taken to ensure the preservation of structures and neighborhoods designated historic by the City of Clarksville, Tennessee, pursuant to the authority contained in Section 13-7-402, of the Tennessee Code Annotated. The general intent includes, among others, the following specific purposes:

- A. To preserve and protect the historic and/or architectural integrity and value of buildings or other structures;
- B. To protect the historic buildings or other structures from encroachment of surrounding uses or development that diminish or lessen their significance;
- C. To regulate exterior design, arrangement, texture, and materials proposed to be used within the historic district to ensure compatibility;
- D. To retain and/or reinforce an appearance and character that complements the district's historic buildings or other structures;
- E. To stabilize and improve property values;
- F. To foster civic beauty;
- G. To strengthen the local economy; and
- H. To promote the use of historic districts for the education, pleasure, and welfare of the present and future citizens of Clarksville and Montgomery County.

2. Regional Historic Zoning Commission.

2.1: Composition of the Commission

A Regional Historic Zoning Commission (RHZC) is hereby created for the City of Clarksville, Tennessee. It shall consist of seven (7) members who shall have been bona fide residents of the area of jurisdiction of Montgomery County for not less than three (3) years immediately prior to appointment and who shall continue to be so eligible as long as they serve. The RHZC shall be made up of the following member types:

- A. A representative of a local patriotic or historical organization;
- B. An architect, if available;
- C. One representative of the City Council;
- D. One representative of the County Commission;
- E. One representative of the Regional Planning Commission;
- F. The remaining members shall be appointed from the general public.

Any appointed architect may practice in the public and/or private sectors. However, they must recuse themselves from discussions and voting on any Certificate of Appropriateness (COA) applications for which they may have a conflict of interest.

2.2: Appointment of the Commission Members

- A. The mayor of the City of Clarksville shall appoint, subject to confirmation by the City Council, the following RHZC member types:
 - The representative of the local patriotic or historical organization
 - The member of the City Council, and
 - One member from the general public
- B. The Mayor of Montgomery County shall appoint, subject to confirmation by the County Commission, the following RHZC member types:
 - The architect
 - The member of the Board of County Commissioners, and
 - One member from the general public
- C. The Regional Planning Commission shall nominate, subject to confirmation by both legislative bodies of the City and County, the RHZC member representing the Regional Planning Commission.

2.3: Commission Member Terms, Compensation, Removal, and Vacancies

RHZC members shall serve five (5) year terms. However, the members appointed initially shall be appointed for staggered terms so that the terms of at least one (1) member, but not more than two (2) members, shall expire each year. The term of the member nominated from the Regional Planning Commission shall be concurrent with their term on the Regional Planning Commission, and the term of members from the local legislative bodies shall be concurrent with their terms on the local legislative body. All members shall serve without compensation, and they may be removed from membership by the appointing authority for just causes. Any member being so removed shall be provided, upon request, a public hearing on the removal decision before the City Council and County Commission. Vacancies on the RHZC shall be filled for the unexpired term of those members whose position has become vacant in the manner herein provided for the appointment of such member. Vacancies shall be filled within sixty (60) days following their removal. The RHZC may adopt rules and regulations consistent with the provisions of this Section.

2.4: Powers and Duties of the Commission

The RHZC shall have the following powers and duties:

- A. To conduct surveys of local historical and cultural resources, and to maintain a list of districts and individual properties that have been designated historic pursuant to local legislation.
- B. To review all proposed nominations to the National Register of Historic Places for properties within the jurisdiction of Montgomery County, and to draft and forward a report to the Tennessee Historical Commission (State Historic Preservation Office) with the RHZC's recommendations on nominations.
- C. To make recommendations to the City Council on the designation of local Historic Districts.

- D. To adopt Design Guidelines, to review applications for Certificates of Appropriateness (COA) based upon those guidelines, and to make decisions on COA applications for proposed reviewable alterations to properties in Historic Districts or individually designated.
- E. To review information and provide its formal opinion with regard to state and federal review processes related to historic resources that might be impacted by proposed work that is subject to state or federal review. Example review processes include Environmental Impact Statements and “Section 106 Review,” which is a review process of potential impacts to historic resources related to federally-funded or licensed work in accordance with Section 106 of the National Historic Preservation Act of 1966 or as amended.
- F. To secure the services of experts in historic preservation, architecture, landscape architecture, structural engineering, and similar disciplines to assist the RHZC in carrying out its responsibilities in accordance with this ordinance.
- G. To establish reasonable fees to be paid by applicants as part of their COA application.

2.5: Election of Officers, Rules and Meetings

The RHZC shall elect from its members its own Chairman and other officers deemed appropriate to carry out its purpose. The RHZC shall adopt Rules of Order for conducting meetings and establish regular meeting dates.

2.6: Conflict of Interest

Any member of the RHZC who has a direct or indirect interest in any property or COA applicant that is the subject matter of, or affected by, a decision of the Commission shall be disqualified from participating in the discussion, decision, or proceedings of the RHZC in connection therewith.

2.7. Right of Entry Upon Land

The RHZC, its members, employees, and authorized experts, may enter upon any land within its jurisdiction and make examinations and place or remove public notices as required by this section as part of their work. However, there shall be no right of entry into any building without the consent of the owner.

2.8. Liability of RHZC Members, Employees and Authorized Experts

Any RHZC member, employee, and authorized expert acting within the powers granted by this section is relieved from all personal liability for any damage and shall be held harmless by the City and County governments. Any suit brought against any RHZC member, employee or authorized expert shall be defended by a legal representative furnished by the City of Clarksville or Montgomery County, until the final termination of the procedure.

3. Designation of Historic Districts.

The Regional Historic Zoning Commission (RHZC) may initiate revisions to the boundaries of existing Historic Districts or the designation of new districts. Likewise, other entities and individuals may do the same.

3.1: District Designation Criteria

A Historic District is a geographically definable area that possesses a significant concentration, linkage or continuity of sites, buildings, structures or objects that are united by past events or a cohesive character by physical development. Such areas must meet one or more of the following criteria:

- A. The area is associated with an event that has made a significant contribution to local, state, or national history;
- B. The area includes structures associated with the lives of persons significant in local state or national history;
- C. The area contains structures or groups of structures that embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction;
- D. The area has yielded or may be likely to yield archaeological information important in history or prehistory; or
- E. The area is listed in the National Register of Historic Places.

3.2: District Designation Process

The process for designating or revising zoning districts is described in *Section 11.4: Amendments* of the zoning ordinance. A summary of that detailed process includes the following key elements, including the few deviations for historic zoning districts:

- A. *Initiation of the Process:* A proposed change of zoning district boundaries may be initiated by the City Council, the Regional Planning Commission, or by petition of one or more owners or authorized agents of the owner or owners of property within the area proposed to be changed. For historic zoning districts, changes to boundaries and the designation of new districts can also be initiated by the RHZC or Clarksville citizens having no property ownership interests within the subject area.
- B. *Scheduling of a Hearing:* Upon receipt of the valid application, the RHZC staff shall schedule a hearing with the Regional Historic Zoning Commission, having first given at least fifteen (15) days notice thereof by one publication in a newspaper of general circulation for the historic zoning district map amendment.
- C. *RHZC Hearing:* Any proposed historic zoning map amendment shall first be submitted to and approved by the Regional Historic Zoning Commission. Notice should have been given at least fifteen (15) days prior to the hearing in a newspaper of general circulation.
- D. *Planning Commission Hearing:* Following approval by the RHZC, any proposed historic zoning map amendment shall next be submitted to and approved by the Regional Planning Commission. Notice should have been given at least fifteen (15) days prior to the hearing in a newspaper of general circulation.

E. City Council Hearing: If the proposed historic zoning map amendment is disapproved by the Planning Commission, a favorable vote of the majority of the entire membership of the City Council must be secured for the amendment to be approved.

Upon the creation of an Historic District, the boundaries shall be shown on the zoning map or on special overlays thereto that are made a part of this ordinance section and may be viewed via the Regional Planning Commission's and the RHZC's readily available information. No structure shall be constructed, altered, repaired, moved, or demolished in any Historic District unless the action complies with the requirements set forth in this section. Alterations and repairs to the interiors of buildings are not subject to these requirements.

3.3: Relationship of Historic Districts to Zoning

Zoning districts are considered to be underlying "base districts" and they regulate the most fundamental aspects of land use and development, including permitted and conditional uses, residential densities and non-residential intensities, and building heights and setbacks. Historic Districts are considered to be "overlay districts" in which another layer of regulation applies to the underlying base districts. Where conflicts occur between the requirements of the underlying base zoning district and those of the overlaying Historic District for any given property, the zoning district requirements shall supersede those of the Historic District in all matters related to land use, density and intensity. Where conflicts exist regarding design issues, including lot widths, building heights, building setbacks, and similar design issues, the requirements of the Historic District shall supersede those of the underlying base zoning district.

4. Design Guidelines and Design Review.

4.1: Adoption of Design Guidelines

This ordinance for Historic Districts functions as enabling legislation that addresses the legal and administrative aspects of Historic Districts. It intentionally does not include the actual design-related standards to be applied to properties within the districts. The RHZC shall approve a separate Design Guidelines document to be utilized in the consideration of applications for a Certificate of Appropriateness (COA). While it is a separate document from this ordinance, the Design Guidelines shall carry the same legal authority as given to other formally adopted zoning and development regulations. Following approval by the RHZC, they Design Guidelines shall be approved and adopted by the Regional Planning Commission.

4.2: Design Review Process

A. Step One - Application

The first step in undertaking a project in the Historic District is to submit an application to the Regional Historic Zoning Commission (RHZC). RHZC staff will provide the applicant with the adopted Design Guidelines. It is recommended that the applicant become familiar with the guidelines prior to planning the project and before the development of any working drawings. The applicant must submit one set of the following documents signed by the applicant that will be retained by the RHZC:

- Copies of the proposed site plan (to an engineering scale) showing all site improvements such as buildings, walls, walks, parking, signs, plant materials, and lighting.
- Completed color exterior building elevations (1/4th = 1' architectural scale minimum, although 1/8th or 3/16th = 1' may be acceptable for larger buildings with staff approval)
- Exterior painting schedule (color name and brand).
- Samples of proposed exterior materials (brick, stone, metals, glass, roofing, etc.).
- Color photographs of all sides of the existing building's exterior for remodeling, rehabilitation, or demolition. Photographs shall also show contiguous properties.

B. Step Two – Appearance Before the RHZC

Regular meeting dates and times, and the deadline for submitting complete applications for each regular meeting, shall be established by the RHZC. The applicant shall appear before the RHZC at a regularly-scheduled meeting to present the application. All meetings of the commission shall adhere to the Tennessee Open Meetings Act (TCA sec. 8-44-101, et seq.), and the RHZC will provide an opportunity for public comment. Should the application indicate proposed work that is not governed by this ordinance, the RHZC staff may exempt the application from the provisions of the Design Guidelines. Also, if the application is for proposed work that can be approved administratively by RHZC staff (Minor Work), the applicant will not be required to appear before the RHZC.

C. Step Three – Approval, Conditioned Approval or Disapproval

After a careful review of the application and presentation, the RHZC will Approve, Conditionally Approve, or Disapprove the application. An Approval requires no changes by the applicant to the submitted application and plans. A Conditional Approval comes with revisions to the submitted application and plans required by the RHZC and agreed upon by the applicant as part of the RHZC approval.

Approval or Conditioned Approval: Upon Approval or Conditional Approval of any application, the RHZC shall transmit a report to the City Building Official or the County Building Commissioner stating the basis upon which such approval was made, and cause a Certificate of Appropriateness (COA) to be issued to the applicant. Upon failure of the RHZC to take final action within thirty (30) days after receipt of a complete application, the case shall be deemed approved, except when mutual agreement has been made for an extension of the time limit. When a COA has been issued, a copy shall be transmitted to the City Building Official or the County Building Commissioner who shall inspect the construction or alteration of the exterior approved by such COA, and report to the RHZC any work not in accordance with the COA before issuing a Certificate of Zoning Compliance.

Disapproval: In the case of Disapproval of any application, the RHZC shall state the reasons therefore in a written statement to the applicant in terms of design, arrangement, texture, color, material, and the like of the property involved. Notice of such Disapproval and a copy of the written statement of reasons shall also be transmitted to the City Building Official or the County Building Commissioner.

COA approvals expire after three (3) years of being issued.

4.3: Contributing Resources

Contributing resources can include buildings, structures and other features of a property that are considered to be contributing to the overall character and architectural or historic integrity of the Historic District. Resources not meeting this definition are considered to be Non-Contributing Resources. Details relating to this issue are addressed in the Design Guidelines that supplement this ordinance. However, a typical Contributing Resource is a building that was constructed during the Historic District's era of significance and that has been well-preserved, rehabilitated, and/or has not been substantially altered in a manner that would diminish its architectural or historic integrity. The Design Guidelines are more permissive for Non-Contributing Resources than for Contributing Resources with respect to alterations, removal, demolition or redevelopment so long as the proposed actions do not make the resource even more incompatible with the Historic District.

4.4: Building Permits

The City Building Official and the County Building Commissioner shall not issue any permit for the construction, reconstruction, alteration, or extension of a building or other structure within any Historic District, nor shall any other agency issue a permit for the demolition or removal of any building or other structure within said district without first submitting a Certificate of Appropriateness (COA) application with all exterior plans, elevations, and other information necessary to be passed upon by the RHZC. In the case of applications for demolition of a building or structure deemed to be "Contributing" (contributing to the character of the Historic District), plans or other information for the subject property shall be required to be submitted by the applicant. See Section 4.6 below for the approval process for proposed demolitions.

4.5: Proposed Actions Subject to Design Review

It shall be the duty of the RHZC to decide on COA applications for properties within any locally-designated Historic District in which the following types of actions are proposed:

- A. Altering the exterior of any building or structure in such a manner that is discernible
- B. Demolishing a portion or all of a building or structure
- C. Construction of a new building or structure
- D. Installing signs and other building or site fixtures
- E. Construction of off-street parking areas, drives accessing the property, and sidewalks along the public right-of-way
- F. Installation, removal or alteration of significant site features, including outbuildings, fences, walls, and mature landscaping

The RHZC shall not review and regulate the interior of buildings or structures.

4.6: Building Removal or Demolition

In the event an application for removal or demolition or redevelopment of a building or other structure within an Historic District is submitted or such demolition is required, the governmental agency receiving such request or initiating such action shall transmit a copy thereof to the RHZC. The applicant must submit a COA application for such proposed action, and the RHZC shall decide upon the application based upon the relevant criteria within the Historic District's Design Guidelines. The RHZC has the authority to prohibit such removal,

demolition or redevelopment. When approving such actions, the RHZC may require interior and exterior photographs, architectural measured drawings of the exterior, or other notations of architectural features to be used for historical documentation as a condition of any permission to remove, demolish or redevelop a building or structure.

4.7: Demolition by Neglect

“Demolition by Neglect” is the improper maintenance or lack of maintenance of any historic resource that results in substantial deterioration of the resource and threatens its continued preservation. It is prohibited within Historic Districts in accordance with the following standards:

A. Determination of Demolition by Neglect

Any Contributing Resource within a Historic District shall be preserved by the owner or such other person or persons as may have the legal custody or control thereof against decay and deterioration and free from unreasonable structural defects. The owner or other person having legal custody and control thereof shall repair such resource if it is found to have one or more of the following defects:

- 1) Deterioration to the extent that it creates or permits a hazardous or unsafe condition as determined by the City's Building Inspector or other Codes Official.
- 2) Deterioration, as determined by the City's Building Inspector or other Codes Official, of a building characterized by one or more of the following conditions:
 - a) Those buildings which have parts thereof that are so attached that they may fall and injure persons or property;
 - b) Deteriorated or inadequate foundations;
 - c) Defective or deteriorated floor supports or floor supports insufficient to carry imposed loads with safety;
 - d) Members of walls or other vertical supports that split, lean, list, or buckle due to defective material, workmanship, or deterioration;
 - e) Members of walls or other vertical supports that are insufficient to carry imposed loads with safety;
 - f) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that sag, split, or buckle due to defective material, workmanship, or deterioration;
 - g) Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that are insufficient to carry imposed loads with safety;
 - h) Fireplaces or chimneys that list, bulge, or settle due to defective material, workmanship, or deterioration; or
 - i) Any fault, defect, or condition in the building that renders the same structurally unsafe or not properly watertight.

B. Correction of Demolition by Neglect

If the RHZC makes a preliminary determination that a resource is being demolished or deteriorated by neglect, it shall direct the City Building Officials to notify the owner or owners of the resource of this preliminary determination, stating the reasons therefore. The notice shall give the owner of record thirty (30) days from the date of mailing of such notice or the posting thereof on the property, whichever comes later, to commence work to correct the specific defects as determined by the RHZC. Such notice shall be given as follows:

- 1) By certified mail, restricted delivery, mailed to the last known address of the record owner or owners as listed on the City and/or County tax rolls; or
- 2) If the above mailing procedure is not successful, notice shall be posted in a conspicuous, protected place on the resource.
- 3) If the owner or owners fail to commence work or appear within the time allotted as evidenced by a building permit, the RHZC shall notify the owner or owners in the manner provided above to appear at a public hearing before the RHZC at a date, time, and place to be specified in said notice, which shall be mailed or posted at least thirty (30) days before said hearing. For the purpose of insuring lawful notice, a hearing may be continued to a new date and time. The RHZC shall receive evidence on the issue of whether the subject resource should be repaired and the owner or owners may present evidence in rebuttal thereto.

4.8: Unreasonable Economic Hardship

When a claim of Unreasonable Economic Hardship is made due to the effect of this ordinance, the owner of record must present evidence sufficient to prove that, as a result of the RHZC's action, he is unable to obtain a reasonable return or a reasonable beneficial use.

A. Hardship as an Appeal Process

The step for addressing an Unreasonable Economic Hardship can only occur after the RHZC has denied approval for a Certificate of Appropriateness (COA). Thus, it is a built-in appeal process that is not based upon the merits of the denied application, but rather solely on the issue of Unreasonable Economic Hardship.

B. Required Property Information

The owner of record shall submit by affidavit to the RHZC for its review information that shall include, but not be limited to, the following:

- 1) Date the property was acquired by its current owner;
- 2) Price paid for the property (if acquired by purchase) and the relationship (if any) between the buyer and the seller of the property;
- 3) Mortgage history of the property, including the current mortgage, if applicable;
- 4) Current market value of the property;
- 5) Equity in the property (the portion of a property's value that an individual owns outright, free and clear of any debts or liens);
- 6) Past and current income and expense statements for a three (3) year period;
- 7) Past capital expenditures during ownership of current owner;
- 8) Appraisals of the property obtained within the previous three (3) years; and
- 9) Income and property tax factors affecting the property.

The RHZC may require that an applicant furnish additional information relevant to its determination of Unreasonable Economic Hardship. The RHZC may also receive and consider studies and economic analyses from other public agencies and from private organizations relating to the property in question.

C. Decision Process

Should the RHZC determine that the owner's present return is not reasonable, it must consider whether there are other uses currently allowed that would provide a reasonable return and whether such a return could be obtained through investment in the property for rehabilitation purposes. Should the applicant satisfy the RHZC that he will suffer an Unreasonable Economic Hardship if a COA's disapproval is not reversed, such COA disapproval must be reversed by the RHZC.

4.9: Appeals from RHZC Decisions

Anyone who may be aggrieved by any final order or judgment of the RHZC may have such order or judgment reviewed by a court of competent jurisdiction (circuit or chancery court) by procedure of statutory certiorari as provided for in Tennessee Code Annotated § 27, Chapter 8 (Acts 1982, Ch. 814 and 1;1987, Ch. 40 and 6).

4.10: Public Safety Exclusion

None of the provisions of this ordinance shall be construed to prevent any action of construction, alteration, or demolition necessary to correct or abate the unsafe or dangerous condition of any resource, or part thereof, where such condition has been declared unsafe or dangerous by the City Building Officials or the Fire Department and where the proposed actions have been declared necessary by such authorities to correct the said condition. However, only such work as is necessary to correct the unsafe or dangerous condition may be performed pursuant to this section. In the event any Contributing Resource located within a Historic District shall be damaged by fire or other calamity to such an extent that it cannot be repaired and rehabilitated, it may be removed in conformity with normal permit procedures and applicable laws, provided that:

- A. The City Building Officials concur with the property owner that the resource cannot be repaired and restored and so notifies the RHZC in writing.
- B. The RHZC, if in doubt after receiving such notification from the City Building Officials, shall be allowed time to seek outside professional expertise from the State Historic Preservation Office and/or an independent structural engineer experienced with historic buildings before issuing a COA for the demolition. The RHZC may indicate in writing by letter to the City Building Officials that it will require a time period of up to ninety (90) days for this purpose, and, upon such notification to the City Building Officials, this section shall be suspended until the expiration of such a delay period.

4.11: Penalties for Ordinance Violations

In accordance with section 4-601.h of the City's Codes, any person, firm, corporation or agent, who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, or who shall erect, construct, alter, demolish or move any structure, or has erected, constructed, altered, repaired, moved or demolished a building or structure in violation of this code shall be prosecuted within the limits provided-by state or local laws. Upon conviction for any violation, any such person shall be subject to a civil fine of up to fifty dollars (\$50.00) per day for each day a violation continues or occurs. Each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this code is committed or continued.

5. Reporting.

As long as Clarksville retains its status as a Certified Local Government (CLG) having a comprehensive historic preservation program in accordance with CLG standards, the RHZC shall send all annual reports of its activities to the Tennessee Historical Commission (State Historic Preservation Office).

6. Severability.

6.1: Ordinance Provisions

If any court of competent jurisdiction invalidates any provision of this ordinance, then such judgment shall not affect the validity and continued enforcement of any other provision of this ordinance.

6.2: Ordinance Application

If any court of competent jurisdiction invalidates the application of any provision of this ordinance to a particular property, structure, or situation, then such judgment shall not affect the application of that provision to any other building, structure, or situation not specifically included in that judgment.

6.3: Conditions of Approval

If any court of competent jurisdiction judges invalid any condition attached to the approval of a COA application, then such judgment shall not affect any other conditions or requirements attached to the same approval that are not specifically included in that judgment.