

ARCHITECTURAL REVIEW BOARD COMMITTEE MEMBERS (3-YEAR TERM) – 5 MEMBERS

**Meetings held on the 3rd Tuesday of each month, 3:30 p.m.
City Hall Conference Room**

Community Development Coordinator: Tyler Johnson – 859-623-1000 ext. 1801

BAR Clerk: Katlin Cappel – 859-623-1000 ext. 1308

CPSRM Representative: John McIntosh – 859-623-1000 ext. 1306

Volunteer Board Members

| Name | Expiration Date |
|------------------------------|-------------------------------|
| Ed Ford | 5/01/2022: Order 19-95 |
| Brandon Powell, Chair | 5/01/2024: Order 21-64 |
| Kara Purdy | 3/26/2022: Order 19-58 |
| Colleen Spencer | 5/01/2024: Order 21-64 |
| Cameron Abney | 2/22/2023: Order 20-51 |

CHAPTER 155: HISTORIC DISTRICTS; BOARD OF ARCHITECTURAL REVIEW

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GENERAL PROVISIONS

§ 155.01 INTENT; PURPOSE.

The purpose of this chapter is to protect, perpetuate, and encourage the nondestructive use of structures and districts designated as having substantial historical, cultural, or architectural importance within the city; to increase community pride and to enhance the identity of the city by protecting the city's heritage and prohibiting the avoidable destruction or defacement of its cultural assets; to strengthen the city's

economic base by encouraging the preservation of its viable and distinctive neighborhoods; to prevent creation of environmental influences adverse to such purposes; and to assure that new structures and uses within historic districts will be in keeping with the character to be preserved and enhanced.

(Ord. 04-02, passed 2-3-04)

§ 155.02 APPLICATION OF HISTORIC DISTRICT REGULATIONS.

The historic district classification and regulations thereunder shall be established in addition to existing zoning classification and regulations. Where there are conflicts between the procedures and regulations established in this chapter for historic districts and other procedures and regulations, it is intended that the more stringent shall apply.

(Ord. 04-02, passed 2-3-04)

§ 155.03 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, addition, modification, moving, or destruction which would affect the exterior appearance of a structure which is located in a historic district.

APPLICANT. The recorded owner of the site and/or buildings located thereon, the lessee thereof, or a person holding a bona fide contract to purchase or lease the same.

BOARD. The Board of Architectural Review established in this chapter.

CERTIFICATE OF APPROPRIATENESS. A document evidencing approval of the Board of Architectural Review or by the Planning Commission in situations established in this chapter for work proposed by an applicant.

COMMISSION. The Richmond Planning & Zoning Commission.

CONSTRUCTION. The erection of any on-site improvements on any parcel of ground located within a historic district, whether the site is presently improved, unimproved, or hereafter becomes unimproved by demolition, demolition by neglect, destruction of the improvements located thereon by fire, windstorm, or other casualty, or otherwise.

CONTRIBUTING STRUCTURE. A contributing structure is one that has a special, unique or distinctive character or a special historic, aesthetic, architectural or cultural significance or value that serves as a visible reminder of the history and heritage of the city, county, state or nation. This is to be applied to districts, landmarks, sites, neighborhoods, places, areas, improvements, archeological and geological features and sites.

DEMOLITION. The complete or partial removal of a structure located within a historic district, except partial destruction, which does not affect exterior appearance.

DEMOLITION BY NEGLECT. Neglect in the maintenance of any building resulting in deterioration to the extent that the building is structurally or visually damaged or threatened with damage, or that creates or permits a hazardous or unsafe condition as determined by the city Building Inspector.

EXTERIOR. All outside surfaces of any building, including the kind and texture of the building material, the type and style of all roofs, windows, doors, signs, light fixtures, steps, or appurtenant elements.

HISTORIC DISTRICT. Any area designated according to the procedures established in this chapter, including both single and multiple-property areas.

STRUCTURE. Anything constructed or erected above ground level which requires location on the ground or attached to something having a location on the ground but not including a tent, vehicle, vegetation, or public utility pole or line.

(Ord. 04-02, passed 2-3-04)

§ 155.04 PROCEDURE FOR ESTABLISHMENT OF HISTORIC DISTRICTS.

(A) The regulations set forth in this chapter shall apply to contributing structures in the historic zone overlay.

(B) The procedure for establishment of additional historic districts shall be as follows:

(1) *Application.* An application for the establishment of a historic district may be filed only by the Board of Architectural Review, the Planning Commission, the City Commission, the owner of the subject property, or by a person with written authorization of the owner. The application shall be filed with the Board of Architectural Review in such form and accompanied by such information as required by the Board of Architectural Review. Upon the filing of an application by a governmental body, the Board of Architectural Review shall promptly notify the owner(s) by certified mail.

(2) *Recommendation by Board of Architectural Review.* Upon the filing of an application for the establishment of a historic district, the Board of Architectural Review shall study and review the application. Before voting upon the application, the Board shall give notice of the time, place, and reason for holding a public hearing thereon in the same manner as for zoning map amendments. After notice of the public hearing and within 60 days after the filing date, the Board shall hold a public hearing on the proposed application and recommend to the Planning Commission that the application be approved or disapproved. After voting to recommend that an application for the

establishment of a historic district be approved or disapproved, the Board shall forward its recommendation, with its reasons therefore, in writing to the Planning Commission.

(3) *Recommendation by Planning Commission.* The procedures for notice and public hearing before the Planning Commission and the City Commission upon the recommendation regarding the establishment of a historic district shall be the same as for zoning map amendments. After voting to recommend that an application for the establishment of a historic district be approved or disapproved, the Commission shall forward its recommendation, with its reasons in writing to the City Commission.

(4) *Action of City Commission.* The City Commission shall act upon a proposed application for the establishment of a historic district within 60 days after receiving the Planning Commission recommendation. It shall take a majority of the entire City Commission to override the recommendation of the Planning Commission.

(Ord. 04-02, passed 2-3-04)

BOARD OF ARCHITECTURAL REVIEW

§ 155.10 CREATION OF BOARD.

For the purposes of making effective the provisions of this chapter, there is hereby created a board to be known as the Board of Architectural Review.

(Ord. 04-02, passed 2-3-04)

§ 155.11 COMPOSITION OF BOARD; APPOINTMENT AND TERMS OF BOARD MEMBERS.

(A) The Board of Architectural Review shall consist of five members to be appointed by the Mayor of Richmond with the approval of the City Commission.

(B) Two of the initial members shall be appointed for three years, two for two years, and one for one year, and, subsequently, members shall be appointed (i) for terms of three years as vacancies occur or (ii) to fill the remaining term of any membership vacancy occurring during such term. A member may be reappointed at the conclusion of his or her term.

(C) The membership shall include at least one member of the architectural or related profession, the real estate profession, a resident or business occupant of a historic district in Richmond, and a person who has displayed an active involvement in historic preservation.

(D) Members shall serve without pay.

(Ord. 04-02, passed 2-3-04)

§ 155.12 POWERS AND DUTIES.

(A) The Board of Architectural Review shall exercise only those powers and duties granted by this chapter and those powers and duties which may be assigned to it at a later time by the City Commission or by further ordinances.

(B) The Board shall not consider interior arrangement or use, but shall consider the historical and architectural qualities of the exterior of the contributing buildings concerned and the relationship of the contributing buildings concerned with all others in the district so as to avoid incongruity and promote harmony therewith.

(C) In all instances the Board shall regulate those outside surfaces of a contributing building that can be viewed from a public right of way or street.

(D) Nothing in this chapter shall be construed to prevent ordinary maintenance or repairs which do not involve a change of design, material, or of the outward appearance of a building.

(E) The authority of the Board shall apply in such cases of material change as painting previously unpainted masonry, sandblasting wood or masonry, or repainting of masonry walls.

(Ord. 04-02, passed 2-3-04)

§ 155.13 ORGANIZATION; MEETINGS.

(A) The Board of Architectural Review shall elect from its membership a chairperson, a vice chairperson, and a secretary, who shall serve for terms of one year and who shall be eligible for re-election.

(B) The chairperson shall preside over the Board and shall have the same right to vote and speak as other members. In the absence or disability of the chairperson, the vice chairperson shall perform the duties of the chairperson. If a vacancy shall occur in the office of chairperson, the vice chairperson shall become chairperson for the unexpired portion of the chairperson's term. In the absence of both the chairperson and vice chairperson, the Board shall by a majority vote of those present choose one of their members to perform the duties of chairperson.

(C) The Planning Commission may provide a secretarial staff for the Board of Architectural Review.

(D) Meetings shall be held at regularly scheduled times, or at the call of the chairperson, or in his or her absence, at the call of the vice chairperson. A quorum shall consist of three members, but a lesser number may conduct public hearings or meetings at which the principal purpose is collection of information, provided that no action

binding on the Board shall be taken at such hearings or meetings. All meetings and records of the Board of Architectural Review shall be public.

(E) Decisions by the Board shall be made by a majority vote of those members at any meeting where a quorum of members is present.

(Ord. 04-02, passed 2-3-04)

§ 155.14 FAILURE OF BOARD TO ACT.

Upon failure of the Board of Architectural Review to take final action upon any case written 90 days after the application for a building permit has been filed with the Building Inspector, and unless a mutual agreement between the Board of Architectural Review and the applicant has been made for an extension of time, the application shall be deemed to be approved and the Planning Commission shall promptly issue a Certificate of Appropriateness provided that the application meets all other requirements of law.

(Ord. 04-02, passed 2-3-04)

§ 155.15 APPROVAL OF APPLICATION FOR BUILDING PERMIT BY BOARD.

(A) If the Board of Architectural Review recommends approval of the application for a building permit for a historic district, it shall forward immediately its recommendation in writing stating the reasons for such approval to the Planning Commission. The Commission shall promptly cause a Certificate of Appropriateness to be issued to the applicant and shall at the same time transmit a copy of the Certificate of Appropriateness to the Building Inspector.

(B) Upon receipt of the Certificate of Appropriateness, the Building Inspector shall issue the building permit if it meets all other zoning and legal requirements. The Building Inspector shall inspect the construction or alteration approved by such certificate from time to time and report to the Board of Architectural Review and the Zoning Commission any work not in accordance with such certificate.

(Ord. 04-02, passed 2-3-04)

§ 155.16 DISAPPROVAL OF APPLICATION FOR BUILDING PERMIT BY BOARD.

If the Board of Architectural Review disapproves the application for a building permit in a historic district, it shall promptly transmit a written report stating the reasons for such disapproval to the applicant and the Zoning Commission. In its written report the Board shall make recommendations in regard to an appropriate architectural design, exterior surface treatment, or other appropriate matters to make the application conform to the intent of the historic district regulations. The applicant may then submit

an amended proposal for further consideration by the Board of Architectural Review. The Board may work with the applicant for the year following a refusal to issue a Certificate of Appropriateness pursuant to an application that will conform to the intent of the historic district regulations, or seek alternative economic uses for the property.

(Ord. 04-02, passed 2-3-04)

§ 155.17 APPEAL OF BOARD DECISIONS.

(A) In the event the Board of Architectural Review disapproves an applicant for a building permit in a historic district, the applicant for the permit may appeal to the Planning Commission, which shall hold a public hearing thereon and shall vote on the applicant's appeal within 90 days after the notice of appeal is filed with the commission. The Commission shall give notice of the time, place, and reason for holding a public hearing thereon by publication in a newspaper of general circulation in Richmond not earlier than 21 days nor later than seven days before the public hearing.

(B) (1) If the Commission finds that the application for a building permit conforms to the intent of the historic district regulations and it votes to approve the application, the Commission shall issue a Certificate of Appropriateness to the applicant and transmit a copy to the Building Inspector.

(2) If the Commission votes to disapprove the application for a building permit, it shall transmit its decision to the Building Inspector. In such cases, no building permit or certificate of occupancy shall be issued by the Building Inspector on the application for a period of one year from the date of the decision of the Commission. After one year from the date of the decision of the Commission, the Building Inspector shall issue the building permit provided that the application meets all other requirements of law.

(3) Any person or persons aggrieved by any decision of the Planning Commission affecting a historic district shall have the right to file a civil suit within 30 days from the date of the decision in a court of competent jurisdiction under the usual rules of procedure governing orders and injunctive relief provided the situation warrants it.

(Ord. 04-02, passed 2-3-04)

§ 155.18 ADMINISTRATION OF SCENIC EASEMENTS.

The Board of Architectural Review may administer scenic easements on historic properties when such powers are delegated to the Board by the city.

(Ord. 04-02, passed 2-3-04)

CERTIFICATE OF APPROPRIATENESS

§ 155.30 GENERALLY.

A Certificate of Appropriateness shall be required before a person may undertake any exterior changes on a property or structure within a zone protected by an H-1 overlay. Ordinary maintenance may be undertaken without a Certificate of Appropriateness provided that the work involves repairs to existing features of a building or the replacement of elements of a building with identical pieces and provided that the work does not change the exterior appearance of the building. The Board of Adjustment shall by administrative regulation define the meaning of the terminology "exterior changes" and "ordinary maintenance."

(Ord. 04-02, passed 2-3-04)

§ 155.31 WHERE REQUIRED.

A Certificate of Appropriateness shall be required prior to the initiation of any new construction on, any exterior change to, or the demolition of all or any part of any building, structure or sign on any premises in a zone protected by an H-I overlay.

(Ord. 04-02, passed 2-3-04)

§ 155.32 PROCEDURE FOR ISSUANCE OF CERTIFICATE FOR EXTERIOR CHANGES AND NEW CONSTRUCTION.

A Certificate of Appropriateness may be issued by Board of Architectural Review or by the City Building Inspector in accordance with provisions contained in this chapter. The Board may delegate actions to the Building Inspector, who may review applications without public hearing and action of the Board.

(Ord. 04-02, passed 2-3-04)

§ 155.33 REVIEW BY BOARD.

All applications for Certificate of Appropriateness shall be reviewed by the Board at a public hearing, except those applications for work which have been specifically delegated to the Building Inspector. In addition, the Board shall review all applications for certificates referred by the Building Inspector or those requested for public hearing by the applicant.

(Ord. 04-02, passed 2-3-04)

§ 155.34 FILINGS TO BE SUBMITTED FOR REVIEW.

(A) The Board of Architectural Review, where it deems necessary in order to review a particular application, may require the submission of any or all of the following items: architectural plans, plot plans, landscaping plans, plans for off-street parking, plans for proposed signs, elevations of all portions of proposed additions to structures, photographs, elevations, or prospective drawings showing the proposed structure and

existing structures that are within 100 feet or are substantially related to it visually or by reason of function, traffic generation or other characteristics.

(B) Should the Board of Architectural Review find that the material submitted is not adequate for the proper review of the proposal, the Board of Architectural Review shall promptly notify the applicant and state the specific information that will be required. In such cases, the applicant shall not be deemed to have made a bona fide application to the Board of Architectural Review until the specific information is submitted.

(Ord. 04-02, passed 2-3-04)

§ 155.35 NOTICE OF PUBLIC HEARING.

(A) Notice of the time, place and reason for holding a public hearing shall be given by first class letter at least 14 days in advance of the public hearing.

(B) Further, the Board shall give notice of the time, place and reason for holding a public hearing by publication in the newspaper of highest circulation in Richmond, Kentucky, not earlier than 21 days nor later than seven days before the public hearing.

(Ord. 04-02, passed 2-3-04)

§ 155.36 PUBLIC HEARING.

(A) After notice, the Board shall consider the request for a Certificate of Appropriateness at a public hearing. At the hearing, the Board shall receive the report of the staff, orally and/or in writing, and shall allow the applicant, protestors and other interested citizens to testify and rebut evidence presented by others, provided the chairman shall have the power to limit repetitive testimony and exclude irrelevant testimony and evidence.

(B) In its review of material submitted, the Board of Architectural Review shall examine the architectural design and the exterior surface treatment of the proposed construction on the site in question and its relationship to other structures within the area, the relationship of the proposed construction to the design of the building, and other pertinent factors affecting the appearance and efficient functioning of the historic district or the landmark.

(C) The Board of Architectural Review shall not consider any interior arrangement and shall make no requirements except for the purpose of preventing development incongruous in scale, design or materials to the historic or architectural aspects of the district or landmark.

(D) In reviewing proposals, the Board of Architectural Review shall refer to the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating

Historic Buildings and comply with the design guidelines and criteria adopted by the Historic Preservation Commission.

(E) The Board of Architectural Review shall vote to approve all or part of the application or disapprove all or part of the application within 90 days after the completed application is filed.

(Ord. 04-02, passed 2-3-04)

§ 155.37 ISSUANCE OF CERTIFICATE BY BUILDING INSPECTOR.

The Building Inspector shall promptly issue the Certificate of Appropriateness in accordance with the action of the Board of Architectural Review. Copies of the certificate and the application materials shall be forwarded to the Building Inspector.

(Ord. 04-02, passed 2-3-04)

§ 155.38 CERTIFICATES ISSUED BY BUILDING INSPECTOR.

(A) A certificate issued by the Building Inspector is intended to expedite approval of routine applications for exterior changes without full hearing and action by the Board.

(B) The Board may review and delegate items to the responsibility of the Building Inspector for review and issuance of a Certificate of Appropriateness. The delegation of these items shall be reviewed by the Board at a public hearing and recorded in the minutes of the Board.

(Ord. 04-02, passed 2-3-04)

§ 155.39 PROCEDURES FOR ISSUANCE OF CERTIFICATE BY BUILDING INSPECTOR.

(A) The applicant shall file sufficient information as to accurately depict the location, design and scope of the work to be done.

(B) The staff shall review the information and promptly notify the applicant if the material is not adequate for review and advise the applicant what specific information will be required. The staff shall review the application for compliance with the adopted guidelines and consult with other divisions as appropriate to ensure proper review.

(C) Upon determination that all requirements of the guidelines have been met, and that the application complies with the requirements of the Board, the Building Inspector shall approve the application and issue the Certificate of Appropriateness.

(D) If any question arises as to compliance or if the Building Inspector or applicant feels that the application raises issues deserving review by the full Board, the request shall be referred to the Board for action.

(E) Upon approval by the Building Inspector, the staff shall issue the Certificate of Appropriateness and notify the applicant. In addition, the staff shall forward a copy of the certificate and application materials to the Building Inspector.

(Ord. 04-02, passed 2-3-04)

DEMOLITION

§ 155.50 CERTIFICATE FOR DEMOLITION.

The Building Inspector shall issue no permit which would result in the demolition of all or any part of a structure within a zone protected by an H-I overlay unless and until a Certificate of Appropriateness has been approved by the Board of Architectural Review.

(Ord. 04-02, passed 2-3-04)

§ 155.51 PROCEDURE FOR REVIEW OF CERTIFICATE FOR DEMOLITION.

(A) The procedure for review of a Certificate of Appropriateness for demolition shall be as set forth in this chapter.

(B) The Board shall hear evidence concerning the application at its public hearing and may approve a certificate only if one of the following conditions is determined to exist:

(1) The application is for demolition of an addition, for a portion of a building or for an accessory structure, which is not significant to the principal structure, site, landmark or district and the approval of the application would not adversely affect those parts of a building, site, landmark or the historic district which are significant;

(2) The application is for the demolition or moving of a building, or portion of a building, which does not contribute to the character of and will not adversely affect the character of the property in a zone protected by an H-1 overlay; or

(3) No reasonable economic return can be realized from the property and the denial of the application would result in the taking of the property without just compensation. If the owner wishes to make a claim that the denial of the permit would amount to a taking of the property without just compensation, the owner shall submit to the Board of Architectural Review, not less than 20 days prior to the public hearing, the following information:

(a) For all property:

1. The amount paid for the property, the date of purchase and the party from whom purchased including a description of the relationship, if any, between the owner and the person from whom the property was purchased;

2. The assessed value of the land and improvements thereon according to the two most recent assessments recorded in the office of the Property Valuation Administrator;

3. The two most recent real estate tax bills;

4. Annual debt service for the previous two years recorded by the lending agency;

5. Appraisals obtained within the previous two years by the owner in connection with his or her purchase, financing or ownership of the property;

6. Listings of the property for sale or rent, price asked and offers received, if any; and

7. Any consideration by the owner as to profitable adaptive uses for the property.

(b) For income - producing property:

1. Annual gross income from the property for the previous two years;

2. Itemized operating and maintenance expenses for the previous two years; and

3. Annual cash flow for the previous two years.

(C) The Board of Architectural Review may require that the property owner furnish such additional information as the Board of Architectural Review believes is relevant to its determination of taking without just compensation and may provide in appropriate instances that such additional information be furnished under seal. In the event that any of the required information is not reasonably available to the applicant and cannot be obtained by the applicant, the applicant shall file with his or her affidavit a statement of the information which cannot be obtained, and shall describe the reasons why such information cannot be obtained.

(D) Should the Board of Architectural Review find that the material submitted is not adequate for the proper review of the proposal, the Board of Architectural Review shall promptly notify the applicant and state specifically the information that the Board requires.

(E) Notwithstanding any other provision of this chapter, the Board of Architectural Review, after hearing evidence at its public hearing, may vote to postpone action to approve or deny an appeal for a reasonable period of time not to exceed one year from

the filing date of application in order to conduct studies, surveys and/or gather information concerning the following:

(1) Alternatives which may be or may become available including restoration, rehabilitation, adaptive reuse, or other alternatives to demolition; and

(2) Study the question of economic hardship for the applicant including whether the landmark or the property can be put to reasonable beneficial use without the approval of the demolition; and whether the applicant can obtain a reasonable return from the existing building. If economic hardship or the lack of a reasonable return is not proved, the Board of Architectural Review shall deny the demolition application, giving the facts and reasons for its decision.

(F) (1) If the Board of Architectural Review approves the demolition as outlined, a Certificate of Appropriateness shall be given to the applicant and a copy transmitted to the Building Inspector.

(2) If the Commission votes to disapprove the application for a building permit, it shall transmit its decision to the Building Inspector. In such cases, no building permit or certificate of occupancy shall be issued by the Building Inspector on the application for a period of one year from the date of the decision of the Commission. After one year from the date of the decision of the Commission, the Building Inspector shall issue the building permit provided that the application meets all other requirements of law.

(3) In rebuilding, a structure shall not be permitted to be set any closer to the front lot line as the original structure.

(G) Any person or persons aggrieved by any decision of the Planning Commission affecting a historic district shall have the right to file a civil suit within 30 days from the date of the decision in a court of competent jurisdiction under the usual rules of procedure governing orders and injunctive relief provided the situation warrants it.

(Ord. 04-02, passed 2-3-04)

§ 155.52 DEMOLITION BY NEGLIGENCE.

(A) In the event the Board of Architectural Review determines that a landmark or a building in a historic district is being "demolished by neglect", they shall notify the property owner of this preliminary finding stating the reasons therefore, and shall give the property owner 30 days from the date of the notice in which to commence work rectifying the specific problems detailed by the Board. Such notice shall be accomplished in the following manner:

(1) By certified mailing to the last known address of the property owner; or

(2) In the event the procedure outlined in (1) above is not successful, then such notice shall be attached to the building twice within a week.

(B) Upon the property owner's failing to commence work, the Board of Architectural Review shall notify the property owner in the manner provided above to appear at the next public hearing of the Board. A representative of the Board or the Planning Commission staff shall present to the Board at the public hearing the reasons for the notice, and the property owner shall have the right to present any rebuttal thereto.

(C) If, thereafter, the Board shall determine that the building is being "demolished by neglect", and no efforts made to preserve it, the city may, through the Building Inspector or other appropriate officer of such department, bring charges against the applicant for the violation of this chapter. The city also may cause such property to be repaired at its expense at such time as funds are appropriated, and the city may file an affidavit to this effect in the office of the city Tax Assessor, which shall constitute a lien and privilege against the property.

(Ord. 04-02, passed 2-3-04)

 **§ 155.99 PENALTY.**

Any person, firm or corporation who or which violates any of the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to the same penalties that apply to other violations of the Richmond Zoning Ordinance.

(Ord. 04-02, passed 2-3-04)