

CHAPTER 1197
Preservation and Design Review Regulations

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CROSS REFERENCES

Board powers - see P. & Z. 1129.10
 Variances - see P. & Z. 1139.01(b)(3)
 Appeal - see P. & Z. Ch. 1147

1197.01 ESTABLISHMENT OF DESIGN REVIEW BOARD.

In recognition of the need for the establishment of a public body with the authority to advise upon changes to structures and objects in the Preservation District and in other parts of the City and in order to encourage changes that are compatible with the restoration movement now in progress the Design Review Board is hereby established.
 (Ord. 100-74. Passed 10-28-74.)

1197.02 PURPOSE.

Council, being mindful of the proud history of this community and of the importance of beauty in the everyday lives of our citizens hereby declares as a matter of public policy that the preservation, restoration, rehabilitation and overall aesthetic improvement of our community are matters of public necessity involving the health, safety, prosperity and welfare of the people. The purpose of this chapter is to:

- (a) Maintain and enhance the distinctive character of the Preservation District by safeguarding the architectural integrity of the various period structures within it, and to prevent intrusions and alterations within this district that would be incompatible with this established character.
- (b) Maintain and enhance the distinctive character of certain Listed Properties in the City by safeguarding the architectural integrity of the various period structures upon those Listed Properties.
- (c) Provide for a means of design review for other aspects of community development within and around the City that will be of any assistance in achieving a more pleasing environment for the residents of and visitors to the City.
(Ord. 100-74. Passed 10-28-74.)

1197.03 DEFINITIONS FOR PRESERVATION AND DESIGN REVIEW REGULATIONS.
The following definitions shall apply only to the provisions of the Preservation and Design Review Regulations of the City Zoning Code.

- (a) "Alter" or "alteration" means any material change in the external architectural features of any property which lies within a Preservation District or has been listed under the provisions of this chapter, as a Listed Property, not including demolition, removal or construction, but including the landscaping of real property.
- (b) "Applicant" means any owner, owners, person, persons, association, partnership or corporation who applies for a certificate of appropriateness in order to undertake any change on property subject to this chapter.
- (c) "Change" means any alteration, demolition, removal or construction involving any property subject to the provisions of this chapter including signs.
- (d) "Property" means any place, building, structure, work of art, fixture or similar object, but shall not include real property unless expressly provided.
- (e) "Landscaping" means or includes only such major landscaping work that is to be on open tracts of land, parking lots, streets, alleys and other large open areas, but not including the planting or arrangement of flowers and plants incidental to the enhancement of single properties.
- (f) "Listed Property" means any property which has special character, historical, aesthetic or architectural value as part of the heritage, development or cultural characteristics of the City, State or the United States and which has been designated as a Listed Property pursuant to the provisions of this Zoning Code.
- (g) "Preservation District" means any area so designated on the Zoning Map in accord with the provisions of this Zoning Code.
- (h) "Member" means any member of the Review Board.
- (i) "Owner" means the owner or owners of record.
- (j) "Review Board" means the Design Review Board established under the provisions of this Zoning Code. (Ord. 100-74. Passed 10-28-74.)

1197.04 PRESERVATION DISTRICT BOUNDARIES.

(a) The Preservation District boundaries are shown on the Zoning District Map and includes all properties within such boundary and all properties fronting on the opposite side of the street of or adjacent to any property within the Preservation District.

(b) Property fronting on the opposite side of the boundary street or adjacent to any property within the Preservation District shall only be reviewed and regulated to such degree as to be reasonably compatible with those properties within the district boundary.
(Ord. 100-74. Passed 10-28-74.)

1197.05 DESIGN REVIEW BOARD.

(a) The Design Review Board, hereinafter referred to as the Review Board, shall consist of seven members. One member shall be the chairman of the City Planning Commission and one member shall be a member of Council and be designated by Council. Five members shall be appointed by the Mayor and may be chosen from nominations made by a joint nominating committee of the South Central Ohio Preservation Society, the Restoration Committee of the Downtown Associates and the Chillicothe Restoration Foundation.

(b) All members shall be citizens of Ross County, at least five of which shall reside in the City.

(c) Of the membership an effort should be made to nominate and appoint at least one registered architect.

(d) Each appointed member shall serve a term of two years and may be reappointed for terms of two years, except that of the initial appointments, three members shall be appointed for a one year term and may be reappointed for terms of two years.

(e) The members shall serve without compensation from the City and may be removed for just cause by the Mayor. (Ord. 100-74. Passed 10-28-74.)

1197.06 ORGANIZATION AND RULES OF REVIEW BOARD.

(a) As soon as convenient following their appointment to the Review Board the members shall meet and organize by election of a chairman and secretary. The Review Board shall adopt its own rules of procedure and provide for regular and special meetings to accomplish the purpose of this Zoning Code.

(b) Before adoption of such rules of procedure by the Review Board such rules shall be submitted to the City Planning Commission for review and recommendations and to Council for approval. Such rules shall not be adopted without prior Council approval. (Ord. 100-74. Passed 10-28-74.)

(c) By way of clarification, Council hereby finds that de facto procedural rules have been in effect for use by the Design Review Board, and directs that purely procedural rules need not be submitted to, reviewed or approved by the Planning Commission or Council prior to use by such Board. The Board may not adopt substantive rules or criteria without prior Council approval. The use or nonuse of any de facto procedural rules prior to the effective date of this subsection (c) is hereby approved by Council to the extent that such approval does not affect or deprive any applicant before the Board of any substantive right. (Ord. 51-86. Passed 5-12-86.)

1197.07 DESIGNATION CRITERIA FOR PRESERVATION DISTRICTS AND LISTED PROPERTIES.

In considering the designation of any area, place, building, structure, work of art or similar object in the City as a Preservation District or Listed Property, the Review Board, Planning Commission and Council, shall apply, in addition to any other available information, the following criteria:

- (a) The character, interest or value of the area or property as part of the development, heritage or cultural characteristics of the City, State or the United States.
- (b) The location as a site of a significant historic event.

- (c) The identification with a person or persons who significantly contributed to the culture and development of the City.
 - (d) The exemplification by the area or property of the cultural, economic, social or historic heritage of the City.
 - (e) The embodiment of distinguishing characteristics of an architectural type or specimen.
 - (f) Identification as the work of an architect or notable builder whose individual work has influenced the development of the City.
 - (g) The embodiment of elements of architectural design, detail, materials or craftsmanship which represent architecture of significant character, charm or grandeur.
 - (h) A unique location or physical characteristic representing an established and familiar visual feature of a neighborhood or of the City.
- (Ord. 100-74. Passed 10-28-74.)

1197.08 DUTIES OF THE REVIEW BOARD.

The Review Board shall have the following duties:

- (a) The Review Board shall review and act upon all applications for certificates of appropriateness as required in Section 1197.12 of this Zoning Code.
- (b) The Review Board shall conduct or cause to be conducted or assist the conduction of a continuing survey of all areas, places, buildings, structures, homes, works of art or other objects of environmental and aesthetic interest in the City which the Board on the basis of information available or presented to it, has reason to believe are or will be eligible for designation as a Listed Property or Preservation District. No property may be listed and no Preservation District shall be established except upon the approval of Council after review and recommendation by the City Planning Commission.
- (c) The Review Board shall work for the continuing education of the residents of the City with respect to the architectural and historic heritage of the City and the Listed Properties and Preservation Districts designated under the provisions of this chapter, and shall make every effort to improve the overall design and the environmental awareness of the people. The Review Board shall keep current a register of all Listed Properties and Preservation Districts. All Listed Properties shall be given a number and a description accompanied by a photograph. The reasons for listing a property or for recommending the establishment of additional Preservation Districts shall be set forth in writing. This register shall be made available to Council, the City Planning Commission, the Board of Zoning Appeals, the Department of Engineering, the Building-Zoning Inspector, and the public.
- (d) The Review Board shall establish criteria, rules and regulations not otherwise included in this chapter for evaluating applications for certificates of appropriateness submitted to it and the manner in which they shall be processed. These criteria shall include specific considerations to be given to building materials, landscaping, signs, lighting and architectural style for properties within a Preservation District and properties adjacent to a Preservation District as described in Section 1197.04 of this Zoning Code and Listed Properties. Such criteria, rules and regulations shall not be adopted by the Review Board until after review and recommendations by the City Planning Commission and approval by Council.

- (e) The Review Board may recommend to the Planning Commission and Council, legislation that would best serve to beautify, preserve, restore and develop the City. Towards these ends, the Review Board shall work with the appropriate City officials, employees and departments and joint meetings with such officials, employees and departments may be held for this purpose.
- (f) The Review Board may make recommendations to the Planning Commission and Council for additions or revisions to this Zoning Code.
- (g) The Review Board may employ on a permanent or part time basis technical experts and such other employees as may be required to perform its duties, within the appropriations made available therefore.
- (h) The Review Board may, within its capabilities, perform such other design review related tasks as may be required by these Preservation and Design Review Regulations and as may be requested or authorized by the City Planning Commission or Council. (Ord. 100-74. Passed 10-28-74.)

1197.09 PROCEDURE FOR LISTING PROPERTIES.

(a) The Review Board shall notify the owner of any proposal to list his property. Whenever possible, the Review Board shall secure the owner's written consent for the proposed designation and upon receipt of such consent the property shall be listed upon favorable recommendation by the Review Board to the Planning Commission, and upon review and recommendation by the Planning Commission to Council and upon approval by Council after a public hearing by Council.

(b) In the event that such owner shall refuse or decline to give his written consent to the proposed designation, and the Review Board feels it is of considerable importance to the community that the property be listed, the following procedure shall be followed:

- (1) The Review Board shall schedule a public hearing on the question of the proposed designation, setting forth a date, time and place and causing written notice to be given to the owner or any person having a legal or equitable interest in the property being proposed for designation. The Review Board shall cause a legal notice to be published in a newspaper of general circulation in the City setting forth the nature of the hearing, the property involved and the date, time and place of the scheduled public hearing.
- (2) The Review Board shall conduct the public hearing and shall provide a reasonable opportunity for all interested parties to express their opinions. Within fifteen days after the hearing the Review Board shall set forth in its recommendations such findings of fact which constitutes the basis for its decision and shall transmit such recommendation concerning the proposed designation to the Planning Commission.
- (3) The Planning Commission shall within thirty days of its receipt of the recommendations and findings of fact by the Review Board review the same and submit a recommendation to Council along with the recommendation and findings of fact of the Review Board.
- (4) Council shall give due consideration to the findings and recommendations of the Review Board, as well as such views as may have been expressed by persons participating in the hearing before the Review Board, in addition

to the recommendation of the City Planning Commission, in making its determinations with respect to the proposed designation of any areas, signs, places, buildings, structures, works of art and other similar objects as Listed Properties. Council shall hold a public hearing on any such proposed designation. After a public hearing, Council may designate such areas, places, buildings, structures, works of art and other similar objects as a Listed Property.

- (5) After the decision by Council, the Review Board shall notify any owner or any person having a legal or equitable interest in such property of the decision by Council. (Ord. 100-74. Passed 10-28-74.)

1197.10 DEMOLITION PERMIT REQUIRED.

No demolition of any property, as defined in Section 1197.03 or any tree removal shall be undertaken prior to obtaining a certificate of appropriateness from the Review Board and a demolition permit from the Building-Zoning Inspector unless otherwise provided by law. (Ord. 61-76. Passed 9-13-76.)

1197.11 LIMITATIONS ON ISSUANCE OF BUILDING, DEMOLITION, SIGN PERMITS AND CERTIFICATES OF ZONING COMPLIANCE.

(a) No permits which require a certificate of appropriateness shall be issued through otherwise established procedures within a Preservation District or for any Listed Property except in cases coming under the section on exclusions in Section 1197.19 of these regulations, unless the application for such permit is approved by the Review Board through the issuance of a certificate of appropriateness in the manner prescribed herein.

(b) No sign permit shall be issued by the Building-Zoning Inspector or through otherwise established procedures for any sign to be erected or placed within a Preservation District or for any sign to be attached to or erected upon any Listed Property unless a certificate of appropriateness has been issued for that sign in the manner prescribed herein. (Ord. 100-74. Passed 10-28-74.)

1197.12 ISSUANCE OF CERTIFICATE OF APPROPRIATENESS.

(a) When the owner of a property within a Preservation District or owner of a Listed Property desires to make any change other than ordinary maintenance when no color changes are involved, including the construction, reconstruction, alteration or demolition of any property, structure, tree, sign, area or object within a Preservation District or for any Listed Property, such owner or his agent shall first secure a certificate of appropriateness from the Design Review Board, unless such property is exempted in accord with the exclusions permitted in Section 1197.19. Such exemption shall be determined by the Building-Zoning Inspector.

(b) Applications for certificates of appropriateness shall be filed with the Building-Zoning Inspector who shall, prior to the issuance of any permits, refer the application to the Review Board for approval or denial.

(c) If a proposed change is in accordance with the guide lines and criteria for the Design Review Board including the designation criteria provided in Section 1197.07 then the Review Board shall issue a certificate of appropriateness.
(Ord. 61-76. Passed 9-13-76.)

1197.13 CRITERIA FOR EVALUATING APPLICATIONS FOR CERTIFICATE OF APPROPRIATENESS.

(a) In considering the appropriateness of any changes, including signs and tree removal, the Review Board shall take into account the historical and architectural value and significance, architectural style and general design, arrangement, texture, material and color of the proposed change and the relation thereof to the same or related factors in other properties, objects and areas in the immediate vicinity.

(b) Attention shall be taken to avoid the environmentally harmful effect often created by the clash of undisguised contemporary materials with those of older origin, such as aluminum or other metals, plastic, fiberglass and glass improperly used with brick, stone, masonry and wood.

(c) The Review Board shall favor the use of authentic and traditional earth colors and trim colors as opposed to colors of contemporary origin.
(Ord. 61-76. Passed 9-13-76.)

1197.14 LIMITATIONS ON LANDSCAPING.

No landscaping, as defined in these Preservation and Design Review Regulations shall be performed in any Preservation District or Listed Property unless a certificate of appropriateness has first been issued.
(Ord. 100-74. Passed 10-28-74.)

1197.15 NOTICE OF DEMOLITION REQUIRED.

Where a certificate of appropriateness is required by the provisions of this Zoning Code in order to proceed with a demolition the applicant shall provide a written statement that the property concerned is not historically or architecturally significant or otherwise worthy of preservation.. (Ord. 61-76. Passed 9-13-76.)

1197.16 SIGN LIMITATIONS IN PRESERVATION DISTRICT AND FOR LISTED PROPERTIES.

(EDITOR'S NOTE: The provisions of Section 1197.16 were repealed by Ordinance 61-76, passed September 13, 1976.)

1197.17 SIGN AMORTIZATION IN PRESERVATION DISTRICT AND FOR LISTED PROPERTIES.

(EDITOR'S NOTE: The provisions of Section 1197.17 were repealed by Ordinance 61-76, passed September 13, 1976.)

1197.18 CERTIFICATE OF APPROPRIATENESS REQUIRED FOR NEW SIGNS.

(a) As has been provided under the provisions of this Zoning Code, a certificate of appropriateness shall be obtained for any new sign an applicant wishes to erect or place within a Preservation District or on or appurtenant to any Listed Property, object or area.

(b) The certificate of appropriateness by the Review Board shall be obtained prior to issuance of a certificate of zoning compliance by the Building-Zoning Inspector.
(Ord. 100-74. Passed 10-28-74.)

1197.19 EXCLUSIONS.

Nothing in this chapter shall be construed to prevent the ordinary maintenance or repair of any property, area or object within a Preservation District or otherwise listed under the provisions of this chapter, provided such work involves no change in material, design, texture, color or outer appearance; nor shall anything in this chapter be construed to prevent any change, including the construction, reconstruction, alteration or demolition of any feature which in the view of the Building-Zoning Inspector acting lawfully is required for the public safety because of an unsafe or dangerous condition.
(Ord. 100-74. Passed 10-28-74.)

1197.20 PENALTY.

(a) Whoever constructs, reconstructs, alters, changes or demolishes any exterior feature of any property, area, object in violation of these Preservation and Design Review Regulations or whoever maintains, changes or installs a sign in violation of this Zoning Code, shall be deemed in violation of this Zoning Code and such violation shall be punishable under Section 1125.99 of this Zoning Code.

(b) In the event any change is made in any property which has been designated a Listed Property or which is situated in a Preservation District, in violation of the provision of these Preservation or Design Review Regulations, the City may institute appropriate proceedings to prevent such unlawful change.
(Ord. 100-74. Passed 10-28-74.)

1197.21 APPEAL FROM DECISION OF REVIEW BOARD.

(a) In the case of a denied certificate of appropriateness the Review Board shall attempt to work out an alternative plan with the owner or his agent that is acceptable to all parties.

(b) If the Review Board and the owner are unable to work out an alternative plan, or if the owner does not wish to take this action, the owner may make an appeal to the Board of Zoning Appeals in accord with Chapter 1147 of this Zoning Code.

(Ord. 100-74. Passed 10-28-74.)