

## **HISTORIC LANDMARKS AND PRESERVATION DISTRICTS COMMISSION**

### **§ 32.250 PUBLIC PURPOSE.**

(A) The Board of Aldermen found in 1973 and this Metro Council does reaffirm that many structures and improvements having a distinctive character or special historic, aesthetic, architectural, or cultural interest or value have been irrevocably altered, modified, demolished, or uprooted notwithstanding the feasibility and desirability of preserving and continuing the use and existence of such structures and improvements. In addition, distinctive or historic neighborhoods, areas, places, and archaeological sites have been and may be similarly uprooted or may have their distinctiveness destroyed, although the preservation thereof may be both feasible and desirable. It is the finding of the Metro Council that the individual nature and character of this Metro Government cannot be maintained or enhanced by disregarding the historic, aesthetic, architectural, archaeological, or cultural heritage of the Metro Government nor by permitting the destruction of such civic and community assets.

(B) The Metro Council declares as a matter of public policy that the preservation, protection, perpetuation, and use of neighborhoods, areas, places, structures, and improvements having a special or distinctive character or a special historic, aesthetic, architectural, archaeological, or cultural interest or value and which serve as visible reminders of the history and heritage of this Metro Government, commonwealth, or nation is a public necessity and is required in the interest of the health, prosperity, safety, welfare, and economic well-being of the people.

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

(1) Effect and accomplish the preservation, protection, perpetuation, and use of historic landmarks, landmark sites, prehistoric or historic archaeological sites, and neighborhoods, areas, places, structures, and improvements having a special or distinctive character or a special historic, aesthetic, architectural, archaeological, or cultural interest or value to this Metro Government, commonwealth, or nation;

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

(3) Stabilize and improve property values in such districts and in the Metro Government as a whole and protect citizens' reasonable, consistent expectations as to the future stability and integrity of Districts and the appreciation of property values;

(4) Foster civic pride in the value of notable accomplishments of the past;

(5) Assure that new construction and renovation or alterations to existing structures within historic districts, sites, areas, neighborhoods and places will be compatible with the historic, visual and aesthetic character of such historic district, site, area, neighborhood or place.

(6) Strengthen the economy of the Metro Government;

(7) Protect and enhance the Metro Government's attractions to residents, tourists, and visitors and serve as a support and stimulus to business and industry;

(8) Enhance the visual and aesthetic character, diversity, and interest of the Metro Government; and

(9) Maintain a secure and safe environment in such Districts.

(1999 Lou. Code, § 32.500) (Lou. Ord. No. 44-1997, approved 3-28-1997; Lou. Am. Ord. No. 0079-2002, § 1, approved 6-27-2002; Lou. Metro Am. Ord. No. 119-2007, approved 7-2-2007) Penalty, see § 32.262

### § 32.251 DEFINITIONS.

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

**ACCESSORY STRUCTURE.** A structure that is customarily incidental and subordinate to the principal building on the property for non-habitable purposes and is physically detached from the principal building. Accessory structures must be on the same property as the building or use to which they are accessory. Examples of accessory structures include garages, workshops, garden sheds, gazebos and carports.

**APPLICATION.** The written request submitted by a property owner in a form determined by the Commission which requests approval pursuant to this subchapter of a proposed exterior alteration to a structure or property.

**CERTIFICATE OF APPROPRIATENESS or CERTIFICATE.** That written document issued by the staff or committee certifying that the proposed exterior alteration to a structure or property complies with the guidelines.

**COMMISSION.** The Historic Landmarks and Preservation Districts Commission established pursuant to § 32.254 of this subchapter.

**COMMITTEE.** Any Architectural Review Committee established by the Commission pursuant to this subchapter.

**CONSTRUCTION.** The erection, fabrication, assembly or manufacture of the whole or any part of a structure.

**CONTRIBUTING STRUCTURE OR PROPERTY.** A structure or property that reinforces the visual or physical integrity, historic interpretation, or historic character of a district or local landmark, and which is identified as such by the findings of the Commission at the time of its designation or by findings adopted by a Committee or the Commission based upon a subsequent survey and assessment of the structure(s) or properties(s) in a district or local landmark site, using the criteria for evaluation in § 32.260(E)(1).

**COUNCIL.** The Legislative Council of the Louisville/Jefferson County Metro Government, a consolidated local government pursuant to KRS Chapter 67C.

**DEMOLITION.** The destruction of the whole or any part of a structure or the moving of any structure or portion thereof.

**DISTRICT.** A defined area of the Metro Government designated as an Historic Preservation District by the Commission and the Metro Council pursuant to this subchapter or by action prior to the effective date of this subchapter.

**EXTERIOR ALTERATION.** Any change to the exterior of a structure or to a property, including demolition and new construction, except those alterations set out in § 32.256(A) and accessory structures set out in § 32.251 of this subchapter.

**GUIDELINES.** The distinctive characteristics and the statement of specific principles and standards governing exterior alterations to structures or properties applicable to each district and to local landmarks which are adopted by the Metro Council pursuant to this subchapter.

**INCOME PRODUCING PROPERTY.** A structure or property which is used primarily for the purpose of generating revenue whether through lease, rental, or the operation of a commercial enterprise.

**LANDSCAPING.** Planting shrubs, flowers, ground covers and other vegetation, decorative edging for walks and planting beds, freestanding sculpture and bird baths, in any yard of a structure or property except designated cultural or natural landscapes; and ground-level patios and fountains in a rear yard, fencing not visible from a primary street, and tree removal in a rear yard; but does not include fences visible from a primary street, retaining walls or significant changes in grading or topography in a front yard.

**LOCAL LANDMARK.** A structure or property, including prehistoric and historic archaeological sites, designated as a local historic landmark by the Commission as provided in this subchapter or by action prior to the effective date of this subchapter.

**NEW CONSTRUCTION.** The erection of a structure upon a property or the erection of an additional structure adjacent to an existing structure whether attached to or detached from such existing District structure.

**ORDINARY REPAIRS.** Non-structural reconstruction or renewal of any part of a structure for the purpose of its maintenance.

**PROPERTY.** Any tract of real property on which no structure is located, including public rights-of-way and designated cultural or natural landscapes.

**REASONABLE BENEFICIAL USE.** The suitability of a structure for its traditional use or any viable alternative use of the structure.

**STAFF.** Such person or persons employed by the Metro Government and to whom the responsibilities and powers with respect to districts and local landmarks pursuant to this subchapter have been delegated.

**STRUCTURE.** Any man-made object having an attachment to, or location upon, the ground or water.

(1999 Lou. Code, § 32.501) (Lou. Ord. No. 44-1997, approved 3-28-1997; Lou. Am. Ord. No. 0079-2002, § 2, approved 6-27-2002; Lou. Metro Am. Ord. No. 119-2007, approved 7-2-2007; Lou. Metro Am. Ord. No. 130-2012, passed 8-9-2012; Lou. Metro Am. Ord. No. 106-2014, approved 7-30-2014)

#### § 32.252 HISTORIC PRESERVATION DISTRICTS.

(A) Pursuant to the ordinances described more particularly in the Tables of Special Ordinances, the following areas have been designated as Historic Preservation Districts and the boundaries and distinctive characteristics of each are described therein:

- (1) West Main Street Preservation District
- (2) Limerick Preservation District
- (3) Old Louisville Preservation District
- (4) Cherokee Triangle Preservation District
- (5) Parkland Commercial Preservation
- (6) Butchertown Historic District
- (7) Clifton Historic District

(B) The boundaries and distinctive characteristics of each District are described in the Commission action or ordinance establishing each District.

(C) Local Historic Landmarks may be designated as provided in this subchapter.

(D) No person shall make any exterior alteration to any structure or property designated a local landmark or to any property or structure located within a district without obtaining a certificate of appropriateness, issued without cost, as provided in this subchapter.

(1999 Lou. Code, § 32.502) (Lou. Ord. No. 44-1997, approved 3-28-1997; Lou. Am. Ord. No. 0079-2002, § 3, approved 6-27-2002; Lou. Metro Am. Ord. No. 71-2005, approved 6-1-2005) Penalty, see § 32.262

### **§ 32.253 ARCHITECTURAL REVIEW COMMITTEE.**

(A) There is established for each District an Architectural Review Committee which shall have the powers and functions within such District as provided herein.

(B) There is established for the structures or properties designated as local landmarks an Architectural Review Committee which shall have the powers and functions with respect to local landmarks as provided herein.

(C) Each Committee shall consist of seven members, one of whom shall be the Director of the Department of Codes and Regulations or his or her designee, two members shall be members of the Commission appointed by the Commission Chairperson and four members who shall be appointed by the Commission and approved by the Metro Council. These four members shall serve for three year terms except they shall initially serve for one, two or three year terms as set by the Commission and shall serve until his or her successor is appointed and approved unless removed as provided herein or in the by-laws of the Committees and may be reappointed and reapproved for successive terms. These four members shall commence service at the next meeting of the Committee following the member's approval by the Metro Council. The terms of any of these four members now serving on a Committee on the effective date of this amendment shall be set by the Commission. In the case of a Committee established for a district, no fewer than two members shall be owner-residents or tenants within such district, one member shall be a real estate professional and one member shall be an architect and one member shall be the owner of income producing property located within the district. All members shall have a known interest in local landmarks districts preservation.

(D) Four members shall constitute a quorum of a Committee and the affirmative vote of three members or a majority of the members present, whichever is greater shall be required for any official action to be taken by the Committee.

(E) In the event a Committee is unable to obtain a quorum due to conflict of interest involving its members or for other reasons, the member(s) who are unable to participate shall be replaced by members from other committees to serve as members of the Committee, but no more than two of the members shall be from other committees.

(1999 Lou. Code, § 32.503) (Lou. Ord. No. 44-1997, approved 3-28-1997; Lou. Am. Ord. No. 0079-2002, § 4, approved 6-27-2002; Lou. Metro Am. Ord. No. 119-2007, approved 7-2-2007; Lou. Metro Am. Ord. No. 106-2009, approved 8-3-2009; Lou. Metro Am. Ord. No. 128-2013, approved 7-30-2013; Lou. Metro Am. Ord. No. 106-2014, approved 7-30-2014) Penalty, see § 32.262

### § 32.254 COMMISSION; ESTABLISHMENT AND ORGANIZATION.

(A) There is established the Louisville/Jefferson County Metro Historic Landmarks and Preservation Districts Commission. The Commission shall consist of 13 members, ten of whom shall be appointed by the Mayor subject to the approval of the Metro Council. The remaining members shall be the Director of the Department of Codes and Regulations, the Planning Director of the Louisville and Jefferson County Department of Planning and Design Services, who shall act as Secretary of the Commission, and a member of the Council appointed by the President of the Council. Of the members to be appointed by the Mayor, at least one shall be an architect, at least one shall be an architect or landscape architect, at least one shall be an historian or architectural historian qualified in the field of historic preservation, at least one shall be a registered professional archaeologist, at least one shall be a real estate broker or a MAI designated real estate appraiser, at least one shall be an attorney, at least one shall be a person who is a member of the Metro Area Chamber of Commerce (Greater Louisville, Inc.) who has recognized expertise in business and all such members shall have a known interest in local landmarks and districts preservation. The terms of appointive members shall extend from December 1 of one year for three years through and until November 30. Members serving on the Commission on the effective date of this subchapter shall serve for the remainder of the term for which appointed, unless removed earlier and may be reappointed as provided in this subchapter.

(B) Appointive members may be reappointed for successive terms and each appointive member shall serve until the appointment and qualification of his or her successor.

(C) The Mayor shall designate one of the members of the Commission to be Chairman and one to be Vice-Chairman.

(D) The members shall serve without compensation. A member of the Commission shall be immediately removed from the Commission if the member has missed three consecutive regular meetings of the Commission, without sufficient excuse accepted by the Commission.

(E) The Commission shall adopt bylaws for the transaction of its business and for the operation of the Committees, shall conduct regular or special meetings as it deems necessary, and shall keep minutes and records of all proceedings, including the number of votes for and against each question. A majority of the total membership of the Commission shall constitute a quorum for the transaction of business. The affirmative vote of a majority of the members present shall be required for any action taken by the Commission. The Commission shall have

the power to establish subcommittees as it deems necessary, from both within and without its membership, and to give special recognition to outside groups and organizations.

(F) The Commission shall have such powers and duties as shall be prescribed herein with respect to the establishment, regulation, and promotion of local landmarks and districts and all necessary and implied powers to perform such duties. The Commission, in addition to the appropriations made by the Metro Government, 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 Ordinance, subject to the requirements of § 20.15.

(G) The Chairman of the Commission shall meet periodically with the chairmen of the Committees for the purpose of coordinating the activities of the Committees and for the purpose of discussing the decisions made by the Committees. One of the meetings shall be in conjunction with an annual meeting of the members of the Commission and all members of the Committees which shall be held each year for the purpose of discussing the activities of the Commission and the Committees and the implementation of this subchapter.

(1999 Lou. Code, § 32.504) (Lou. Ord. No. 44-1997, approved 3-28-1997; Lou. Ord. No. 0079-2002, § 5, approved 6-27-2002; Lou. Metro Am. Ord. No. 17-2003, approved 2-28-2003; Lou. Metro Am. Ord. No. 128-2013, approved 7-30-2013) Penalty, see § 32.262

#### **§ 32.255 STAFF POWERS AND RESPONSIBILITIES.**

The Metro Government shall delegate to such staff as deemed appropriate responsibility for providing the necessary assistance and support to the Committees and the Commission. The staff shall have the following powers and responsibilities with respect to districts and local landmarks:

(A) Classify all applications in accordance with § 32.256 of this subchapter as being exempt, or requiring staff review, or requiring committee review.

(B) Coordinate review of applications with the Department of Codes and Regulations and other Metro Government departments or agencies.

(C) Review applications requiring staff review and issue certificates of appropriateness therefor.

(D) Provide assistance to the Committees in review of applications requiring committee review.

(E) Provide assistance to applicants.

(F) Provide assistance to the Commission with respect to appeals of applications, designations of districts and local landmarks and with such other matters as may be requested by the Commission.

(1994 Jeff. Code, § 32.070) (Jeff. Ord. 10-1979, adopted and effective 6-12-1979) (1999 Lou. Code, § 32.505) (Lou. Ord. No. 44-1997, approved 3-28-1997; Lou. Ord. No. 0079-2002, § 6, approved 6-27-2002; Lou. Metro Am. Ord. No. 119-2007, approved 7-2-2007; Lou. Metro Am. Ord. No. 128-2013, approved 7-30-2013) Penalty, see § 32.262

#### **§ 32.256 EXTERIOR ALTERATION.**

(A) The following activities with respect to a local landmark or to any property or structure located within a district shall not constitute an exterior alteration and shall not require the obtaining of a certificate of appropriateness as provided in this subchapter.

- (1) Ordinary repairs to the exterior of a structure when such work exactly reproduces the existing design and is executed in the existing material;
- (2) Installing house numbers, mail boxes, small porch lights, kick plates or door knockers;
- (3) Interior alterations which do not cause any exterior alteration;
- (4) Painting any material other than masonry and painting any previously painted masonry the same as the existing color or an historically appropriate color in accordance with the guidelines;
- (5) Landscaping, tree planting, tree trimming or pruning;
- (6) Rear yard improvements not visible from the street at ground level which do not involve alterations to any structure;
- (7) Removal of signage without replacement;
- (8) Temporary signage or structures where such signage or structure shall be permanently removed within six months;
- (9) Emergency repairs ordered by a Building Code enforcement officer in order to protect health and safety.

(B) Any exterior alteration to any local landmark or to any property or structure in a district shall not be commenced by any person without obtaining a certificate of appropriateness as provided in this subchapter. Applications for certificates of appropriateness for exterior alterations other than those specified in subsection (C) of this section shall be reviewed by the staff as provided in § 32.257 of this subchapter.

(C) Applications for certificates of appropriateness for the following exterior alterations shall be reviewed by the Committee having jurisdiction as provided in § 32.257 of this subchapter.

- (1) New construction (except for accessory structures defined in § 32.251 of this subchapter which may be approved by staff);
- (2) Demolition;
- (3) Any exterior alteration, the cost of which shall be greater than 25 % of the assessed value of the structure or property; or
- (4) Any other application which is determined by the staff to be inappropriate for staff review.

(1999 Lou. Code, § 32.506) (Lou. Ord. No. 44-1997, approved 3-28-1997; Lou. Metro Am. Ord. No. 119-2007, approved 7-2-2007; Lou. Metro Am. Ord. No. 106-2014, approved 7-30-2014) Penalty, see § 32.262

#### **§ 32.257 APPLICATION FOR CERTIFICATE OF APPROPRIATENESS.**

(A) No department or agency of the Metro Government shall issue any building permit, certificate of occupancy or other permit, license or approval for any exterior alteration to a local landmark or to any property or structure in a district unless a certificate of appropriateness for such exterior alteration has been obtained pursuant to this subchapter.

(B) An application for a certificate of appropriateness shall be submitted to the Department of Codes and Regulations. The application shall include at least the following information, unless waived pursuant to subsection (C) of this section:

(1) A site plan, drawn to an appropriate scale, photographs or other presentation media showing the proposed exterior alteration in the context of property lines, adjacent structures, streets, sidewalks, and the like.

(2) Plans, elevations and other drawings, drawn to appropriate scale, and a complete description of the materials to be used, as may be necessary to fully explain the exterior alteration.

In addition to the above information, an application for demolition or new construction shall contain information establishing that the property cannot be put to a reasonable beneficial use without the approval of the proposed work or if income-producing property, information establishing that the applicant cannot obtain a reasonable return from the property without the approval of the proposed work.

(C) Applicants may seek review of a proposal prior to making formal application pursuant to subsection (B) of this section at a pre-application conference. At the conference, the staff may discuss with the applicant the proposed exterior alteration and applicable guidelines, and provide information about the district, its goals and objectives, and the review process. The staff, at the request of an applicant, may call a meeting of a subcommittee of the Commission and representatives of appropriate Committee or permitting agencies. At this meeting the applicant can discuss with the subcommittee members his proposed exterior alteration, his concepts, and receive information necessary to submit the application. The staff may agree to waive certain of the requirements set out in subsection (B) of this section if it is determined that such requirements are not necessary for review of the application pursuant to this subchapter.

(D) Within two working days of receipt of an application determined by staff to be complete, the staff shall classify the application as requiring either staff review or Committee review.

(E) An application classified as requiring staff review shall be reviewed by the staff who shall prepare a written decision supported by a finding of fact based upon the guidelines which shall approve the application, approve the application with conditions, or deny the application. If the application is approved or approved with conditions, the applicant shall be issued a certificate of appropriateness.

(F) An application classified as requiring committee review shall be reviewed by the committee having jurisdiction. The application shall first be reviewed by the staff to determine if the proposed exterior alterations are in compliance with the guidelines and the application shall then be forwarded to the committee with the staff's written recommendation to either approve the application, approve the application with conditions or to deny the application.

(G) The applicant and the owners of the real property abutting the property or structure which is the subject of the application shall be sent by first class mail, written notice of the date, time and location of the meeting of the committee at which the application shall be considered. The

notice shall be sent no later than seven days prior to the date of the meeting. A notice of the pending application shall be placed on the property or on or near the structure which is the subject of the application by the staff at least seven days prior to the date of the meeting.

(H) The meeting of the committee scheduled to review an application shall constitute a public hearing on such application. The staff shall present a written recommendation prepared in accordance with subsection (F) of this section. The applicant shall present to the Committee such information as is relevant to review of the application. Interested parties shall have the right to testify either orally or in writing, subject to the right of the Chairman to limit repetitious testimony and to exclude irrelevant testimony.

(I) The Committee shall make a decision based upon a written finding of fact, which shall approve the application, approve the application with conditions, deny the application, or defer consideration of the application until a later meeting of the Committee. If the application is approved or approved with conditions, the applicant shall be issued a certificate of appropriateness. Any application which fails to obtain at least three votes or the votes of a majority of the members present, whichever is greater, for approval or conditional approval shall be deemed to be denied.

(J) The staff and the Committee shall, in their decision making capacities, each make a written finding of fact based upon the information presented which supports a written conclusion that the application demonstrates or fails to demonstrate that the proposed exterior alteration is in compliance with the guidelines.

(K) Any applicant, whose application is denied by the staff or a committee, and any person or entity claiming to be injured or aggrieved by any decision made by the staff or a Committee, may appeal the decision to the Commission. The appeal shall be in writing and shall fully state the reasons why the appeal is sought. An appeal shall be filed within 30 days of the date of the decision. Upon the receipt by the staff of a timely appeal, the staff shall schedule a meeting of the Commission to consider the appeal. Notice of the meeting shall be mailed to the applicant, the property owner, the appellant, and other parties of record, by first class mail, at least seven days prior to the date of the meeting. At the meeting to consider the appeal, the Commission shall review the application and the record of the prior proceedings and, at the discretion of the Chairman, may take additional testimony from the applicant, the property owner, appellant, or other interested parties for the purpose of supplementing the existing record or for the introduction of new information. Upon review of the record and any supplemental or new information presented at the meeting, the Commission shall make a written determination that the decision shall be upheld or overturned. A decision of the staff or the Committee shall be overturned by the Commission only upon the written finding that the staff or Committee was clearly erroneous as to a material finding of fact related to whether the proposed exterior alteration complied with the guidelines. When the Commission overturns a denial of an application, it shall approve the application, or approve the application with conditions. Any member of the Commission who voted on the application when it was considered by the Committee shall not vote on the question of whether the decision of the Committee shall be upheld or overturned.

(L) An applicant whose application for demolition or new construction has been denied by the Committee, may request an economic hardship exemption from compliance with one or more of the guidelines which constituted the basis of the denial of the application pursuant to this paragraph. The request for the exemption shall be in writing and shall be filed with the Commission within ten days of the decision of the Committee. The Commission shall review the

documentation and evidence presented before the Committee relevant to determining whether the applicant qualifies for an economic hardship exemption and such relevant evidence presented to it by the applicant or other interested parties. The Commission shall conduct a public hearing on the proposed hardship exemption. Notice of the hearing shall be sent to the applicant and other parties of record, by first class mail, at least seven days prior to the date of the hearing. At the hearing, the Commission shall receive information to supplement the record concerning whether the applicant qualifies for an economic hardship exemption from one or more of the guidelines applicable to the application. The Commission may require the applicant to submit findings from one or more persons determined by the Commission to have expertise in real estate and development who are knowledgeable in real estate economics in general and, more specifically in the economics of renovation, redevelopment and rehabilitation, to review the documentation submitted in accordance with § 32.257(B)(2) and this section. Within 60 days of the first regular Commission meeting after the applicant's request is filed, the Commission shall render a decision either granting or denying the applicant's request for an economic hardship exemption from compliance with one or more of the guidelines. The decision shall be based upon a written findings of fact. The applicant shall have the burden of showing that the application qualifies for an economic hardship exemption. The Commission shall grant an economic hardship exemption only if it finds that the applicant has demonstrated through a preponderance of the evidence that:

(1) With respect to an application involving a non-income producing structure or property, the property or structure cannot be put to any reasonable beneficial use according to the guidelines adopted by the Commission for economic hardship without the approval of the application.

(2) With respect to an application involving an income-producing structure or property, the applicant cannot obtain any reasonable return from the property or structure without the approval of the application.

(M) The Commission shall send a copy of the decision and the findings of fact to the applicant. If the Commission denies the request for the economic hardship exemption, the denial of the application shall be final. If the Commission grants the request for the economic hardship exemption, the Commission, within 30 days of the decision, shall approve the application or approve the application with conditions and issue a certificate of appropriateness for the proposed exterior alteration. Notwithstanding the hardship exemption, an applicant shall be required to comply with all guidelines applicable to the proposed exterior alteration other than the guidelines to which the hardship exemption applies.

(N) If, after an applicant has obtained a certificate of appropriateness, the proposed work is amended, the applicant shall submit an amended application to the staff who shall make a determination that the amendment has no significant affect or that the application as amended requires additional review. Review of an amended application shall follow the same procedure as provided herein for an original application. Upon a determination by the staff that the amended application requires review, the previously issued certificate of appropriateness may be suspended, at the discretion of the staff, pending the review of the amended application.

(1999 Lou. Code, § 32.507) (Lou. Ord. No. 44-1997, approved 3-28-1997; Lou. Ord. No. 0079-2002, § 7, approved 6-27-2002; Lou. Metro Am. Ord. No. 119-2007, approved 7-2-2007; Lou. Metro Am. Ord. No. 106-2009, approved 8-3-2009; Lou. Metro Am. Ord. No. 128-2013, approved 7-30-2013; Lou. Metro Am. Ord. No. 106-2014, approved 7-30-2014)

**§ 32.258 COMMISSION TO APPROVE GUIDELINES.**

(A) The Commission shall approve guidelines governing the review of applications pursuant to this section for each district and for local landmarks.

(1) (a) The Commission shall direct each Committee to establish a guidelines-drafting task force composed of the members of the Committee and owners of real property within a district, or in the case of the Committee having jurisdiction over local landmarks, the owners of such local landmarks and other interested citizens who shall be appointed by the Committee.

(b) The Committee shall conduct no fewer than one public hearing for the purpose of soliciting comments concerning the proposed guidelines. Notice of such hearings shall be advertised in the newspaper in accordance with KRS Chapter 424.

(2) (a) Each Committee shall, by majority vote, recommend guidelines and shall submit the proposed guidelines to the Commission for approval.

(b) The Commission, prior to voting to approve the guidelines, shall conduct at least one public hearing, which it shall advertise in the newspaper, in accordance with KRS Chapter 424.

(3) (a) The Commission shall adopt guidelines governing the review of economic hardship applications. The Commission may appoint a task force to assist it in the drafting of such guidelines.

(b) The Commission, prior to voting to approve the guidelines, shall conduct at least one public hearing, which it shall advertise in the newspaper, in accordance with KRS Chapter 424.

(B) Guidelines approved by the Commission shall be submitted to the Metro Council for review and adoption. The Metro Council shall adopt the proposed guidelines by resolution, or refer the guidelines back to the Commission for revision.

(C) Upon adoption of the guidelines for a district or local landmarks by the Metro Council, all applications for exterior alterations shall be reviewed in accordance with such guidelines.

(D) The Commission shall adopt guidelines governing the investigation, documentation, and preservation of prehistoric and historic archaeological sites including uniform archaeological guidelines adopted by the Commonwealth of Kentucky.

(1999 Lou. Code, § 32.508) (Lou. Ord. No. 44-1997, approved 3-28-1997; Lou. Am. Ord. No. 0079-2002, § 8, approved 6-27-2002; Lou. Metro Am. Ord. No. 71-2005, approved 6-1-2005)  
Penalty, see § 32.262

**§ 32.259 COMPLIANCE WITH CERTIFICATE OF APPROPRIATENESS.**

All work performed pursuant to the issuance of a certificate of appropriateness shall conform to the certificate and all conditions imposed thereby. It shall be the duty of the Department of Codes and Regulations, or the Department of Public Works and Assets, as appropriate, to inspect from time to time any work performed pursuant to the certificate to assure compliance. In the event work is performed not in accordance with the certificate, or without obtaining a certificate as required by this section, the Directors of the Departments of Codes and Regulations, Planning and Design Services or Public Works and Assets, or their designated representatives, shall issue a stop work order. No certificate of occupancy shall be issued for any project undertaken without

obtaining a certificate of appropriateness unless the work has complied with the conditions established by such certificate of appropriateness.

(1999 Lou. Code, § 32.509) (Lou. Ord. No. 44-1997, approved 3-28-1997; Lou. Metro Am. Ord. No. 71-2005, approved 6-1-2005; Lou. Metro Am. Ord. No. 128-2013, approved 7-30-2013)  
Penalty, see § 32.262

### **§ 32.260 DESIGNATION OF DISTRICTS AND LOCAL LANDMARKS.**

(A) Pursuant to this section, the Commission may:

(1) Designate local landmarks, including prehistoric or historic archaeological sites, which shall be identified by a description setting forth the general nature, distinctive characteristics, location and boundaries thereof;

(2) Designate districts which shall be identified by a description setting forth the general nature, distinctive characteristics including contributing structures or properties, location, and boundaries thereof.

(3) Amend any designation made pursuant to the provisions of subsections (1), (2), and (3) of this section.

(B) The Commission may designate an area as a district if it receives a petition requesting such designation, if the petition contains the verified names and addresses of no fewer than 200 residents of such proposed district, or the verified names and addresses of the owners of at least 50% of the structures or properties within the proposed district, whichever is fewer. The petition shall also contain the following information:

- (1) A description of the boundaries of the proposed district; and
- (2) A description of the distinctive characteristics of the proposed district.

(C) The Commission may designate a structure or property as a local landmark if it receives a written request of the owner or owners of the structure or property, or a petition requesting designation containing the verified signatures and addresses of no fewer than 200 residents of Louisville Metro and provided that at least 101 of those verified signatures and addresses contained in the petition are residents or property owners within one of the following boundaries: (1) a one-mile radius surrounding the structure or property proposed for local landmark designation, (2) the Council district in which the proposed landmark is located or (3) the cumulative area formed when the boundaries of (1) and (2) are combined. When verifying signatures for purposes of accepting a perfected petition to designate a structure or property as a local landmark, any resident or property owner whose address is located on property that touches one of the three boundaries as defined herein shall qualify and be counted toward the aforementioned 101 signature threshold.

(D) (1) Upon verification of a petition pursuant to the requirements of subsection (B), the Commission shall conduct a study and hold a public hearing to determine if the proposed district should be established. A description of the proposed district shall be published in the newspaper in accordance with KRS Chapter 424 no less than once and a copy of the proposed district description and the notice of the hearing shall be mailed, by first class mail, to all property owners within the proposed district.

(2) Upon verification of a petition pursuant to the requirements of subsection (C), the Commission Chairperson shall instruct its staff to do a study of and issue a report on the proposal within 18 calendar days of the submission of the petition. Once completed, staff shall make its report on the proposal available to the public by posting it on the appropriate Louisville Metro website and by keeping a copy of same in its office so that is readily accessible to the public during staff's regular office hours. Within 14 calendar days of the completion and issuance of staff's report on the proposed designation, staff shall schedule, with agreement from the owner(s) of the structure and property, a pre-hearing conference before a subcommittee of no more than five Commissioners. If a pre-hearing conference is scheduled, staff may discuss with the interested parties, including representatives for the petitioners, any changes proposed to the structure or property, the petition for designation, its goals and objectives, the review process, and anything else pertinent to the proposed designation or the applicable process.

Staff shall schedule a public hearing to be held at a regular meeting of the Commission within 90 calendar days of the submission of the petition, unless continued by the Commission Chairperson for just cause, but not to exceed 120 calendar days. If requested by the petitioner or property owner and deemed appropriate and reasonable by the Chairperson, the hearing may be held at a time and place convenient to the public. Once a public hearing date, time and place has been established, the Commission Chairperson shall instruct staff to mail no later than 30 days before the hearing date, by first class mail (unless specified otherwise below), a notice containing the address and description of the proposed landmark as well as the date, time, and place of the public hearing to the following parties (for purposes of mailing notice to the parties identified below in subsections (a), (d), (e), (f) and (g) if, according to the records of the Property Valuation Administrator, the address of the property owner is not the same as the address of the property entitled to notice, then a notice addressed to "resident" shall be mailed to the address of that property):

- (a) The resident(s) and owner(s) of the structure or property;
- (b) All members of the Louisville Metro Council and the Mayor of Louisville Metro (notification sent via electronic mail is sufficient);
- (c) The mayor and city clerk of any second, third, fourth, fifth or sixth class city in which the proposed historic landmark is situated;
- (d) The resident(s) and owner(s) of every parcel of property adjoining at any point the property that is the subject of the petition;
- (e) The resident(s) and owner(s) of every parcel of property directly across the street from the property that is the subject of the petition;
- (f) The resident(s) and owner(s) of every parcel of property that adjoins the adjoining property or adjoins the property directly across the street from the property that is the subject of the petition;
- (g) The resident(s) and owner(s) of any other property within 500 feet of the property that is the subject of the petition, and
- (h) The Neighborhood Notification Program list compiled by Planning & Design Services for the Council district(s) in which the structure or property is situated (these notices may go by electronic mail).

No less than 14 days immediately prior to the date of the public hearing, the Commission shall conspicuously post a sign on the property whereon the landmark proposed for designation is located. The posted sign shall state "Proposed Landmark Designation" in letters three inches in height. The time, place, and date of hearing shall be in letters at least one inch in height. The sign shall be constructed of durable material and shall state the telephone number of the appropriate staff person to contact for information related to the proposed designation. Additionally, the Commission shall publish the above notice in the newspaper in accordance with KRS Chapter 424 at least once no less than seven days prior to the date of the hearing.

(E) After the public hearing, the Commission shall vote on the question of the establishment of the district or designation of the local landmark.

(1) In considering the designation of any neighborhood, area, property or structure in Louisville Metro as a local landmark, or district, the Commission shall apply the following criteria with respect to such structure, property or district:

(a) Its character, interest, or value as part of the development or heritage of Louisville Metro, Jefferson County, the Commonwealth, or the United States.

(b) Its exemplification of the historic, aesthetic, architectural, prehistoric or historic archaeological, educational, economic, or cultural heritage of Louisville Metro, Jefferson County, the Commonwealth, or the nation.

(c) Its location as a site of a significant historic event.

(d) Its identification with a person or persons who significantly contributed to the culture and development of Louisville Metro, Jefferson County, the Commonwealth, or the nation.

(e) Its embodiment of distinguishing characteristics of an architectural type or specimen.

(f) Its identification as the work of an architect, landscape architect, or master builder whose individual work has influenced the development of Louisville Metro, Jefferson County, the Commonwealth, or the nation.

(g) Its embodiment of elements or architectural design, detail, materials, or craftsmanship which represents a significant architectural innovation.

(h) Its relationship to other distinctive areas which are eligible for preservation according to a plan based on an historic, cultural, or architectural motif.

(i) Its location or physical characteristics representing an established and familiar visual feature or which reinforce the physical continuity of a neighborhood, area, or place within Louisville Metro.

(F) If the Commission designates a local landmark or district, it shall within three days of the meeting at which the designation was approved, forward a copy of the designation to the Metro Council.

(G) The designation of a local landmark shall be effective 60 days from the date upon which the Commission took its final action upon such proposal unless the Council adopts, by a vote of the majority of the members in attendance, a resolution initiating a review of the Commission's final action upon the proposal within said 60 days. If the Council timely initiates a review of the Commission's final action, it shall, by letter (or email if specified), notify all parties set forth in § 32.260(D)(2)(a) - (D)(2)(h) of the date, time and place that the review will be conducted, and, if

a public hearing will be held, the right of the public to comment at the public hearing on the proposal. If a public hearing is not held by the Council, or by one of its committees assigned to holding the review, the Council shall confine its review to the information that was presented to the Commission. The Council shall take its final action upon the review of any decision of the Commission within 180 days of the date upon which the Commission takes its final action upon such proposal. The Council shall make a decision based upon written findings of fact and following the criteria set forth in § 32.260(E)(1). The Council's decision shall uphold, modify, or overturn the Commission's decision, and may place conditions the Council deems appropriate. Upon review of the Commission's decision, if the Council fails to take final action within 180 days of the date upon which the Commission took its final action, the Commission's final action shall become final and effective as a matter of law.

(H) No designation of a district shall be effective until ratified by ordinance enacted by the Metro Council. Within 60 days of such ratification, the Commission shall appoint a Committee for the new district and the Committee shall approve guidelines for the new district in accordance with the procedures established in this section. The Commission shall adopt interim guidelines for the district which shall apply until the guidelines are adopted and approved for the district as provided in this section. The provisions of this subchapter shall apply to all exterior alterations to structures or properties within the new district 30 days after the Metro Council enacts an ordinance establishing the new district.

(I) During the pendency of the petition before the Commission or the Council and during any possible appeal or review period, including the 60-day time period wherein Council must act to initiate a review of the Commission's decision, Louisville Metro shall not issue demolition permits or orders under §§ 150.006, 150.110, or 156.807 for a structure(s) or property being proposed for landmark designation.

(1999 Lou. Code, § 32.510) (Lou. Ord. No. 44-1997, approved 3-28-1997; Lou. Am. Ord. No. 0079-2002, § 9, approved 6-27-2002; Lou. Metro Am. Ord. No. 71-2005, approved 6-1-2005; Lou. Metro Am. Ord. No. 130-2012, passed 8-9-2012; Lou. Metro Am. Ord. No. 128-2013, approved 7-30-2013)

### **§ 32.261 COMMISSION POWERS.**

In addition to such other powers, duties, and authority as are set forth in this subchapter, the Commission may:

(A) Establish an appropriate system of markers for selected local landmarks and districts, including various improvements therein;

(B) Encourage and undertake where necessary the publication of uniform and complementary maps, brochures, and descriptive material about such local landmarks and districts;

(C) Cooperate with and advise the Metro Council, the Planning Commission, and other agencies and departments with regard to such matters as may be appropriate with respect to local landmarks and districts.

(D) Cooperate with and enlist assistance from the National Park Service, the National Trust for Historic Preservation, the Kentucky Heritage Council, and other federal, state, and local agencies active in the field of historic and cultural preservation;

(E) Advise owners of local landmarks and properties and structures within districts on the benefits and problems of preservation;

(F) Promote public interest in the purposes of this subchapter;

(G) Review at its meetings major historic preservation questions that are under discussion in Louisville Metro and define the significant issues which need to be addressed in reaching decisions on these questions;

(H) Prepare an annual report for the Mayor and the Metro Council on the status of historic preservation in Louisville Metro, evaluating activities during the year and making suggestions for the future;

(I) Maintain and keep current with new information the survey of neighborhoods, areas, places, structures and improvements within Louisville Metro for the purpose of determining those of a distinctive character or special historic, aesthetic, architectural, archaeological or cultural value and of compiling appropriate descriptions, facts and lists;

(J) Develop a preservation plan creating a framework of expectations that are commonly agreed upon and clearly expressed regarding the preservation of the structures within each district. The Commission may prepare or cause to be prepared a preservation plan under which a district, structures, or properties are preserved in a manner to effectuate the purposes of this subchapter, and are capable of providing a reasonable economic return. The preservation plan may identify applicable federal, state or Metro Government financial incentives and provide authority for alteration or construction not inconsistent with the purposes of this subchapter and other actions allowable by law. In order to facilitate the planning effort, the Commission may request the Metro Council to impose a moratorium on the issuance of permits by the Metro Government in a district, area of a proposed district or portions thereof for up to six months during the preparation of the preservation plan; and

(K) Undertake such other activities or programs which further the purposes of this subchapter.

(1999 Lou. Code, § 32.511) (Lou. Ord. No. 44-1997, approved 3-28-1997; Lou. Am. Ord. No. 0079-2002, § 10, approved 6-27-2002; Lou. Metro Am. Ord. No. 71-2005, approved 6-1-2005)

#### **§ 32.262 PENALTY.**

(A) A person who violates any provision of this subchapter shall be subject to civil penalties of not less than \$100 nor more than \$1,000. Each day a violation continues after due notice has been served of the violation shall constitute a separate offense.

(B) The Metro Government shall possess a lien on the property of the person committing the violation for all fines, penalties, charges and fees imposed pursuant to subsection (A), above. The lien shall be superior to and have priority over all other subsequent liens on the property except state, county, School Board and Metro Government taxes.

(C) Civil penalties imposed for violations of this subchapter shall be enforced pursuant to §§ 32.275 through 32.291.

(1999 Lou. Code, § 32.999) (Lou. Ord. No. 58-1973, approved 4-27-1973; Lou. Am. Ord. No. 203-1998, approved 9-14-1998; Lou. Metro Am. Ord. No. 71-2005, approved 6-1-2005)

#### **§ 32.263 APPEALS FROM THE COMMISSION AND COUNCIL.**

(A) With regards to the Commission's decision on a proposal for designation of a local landmark, an appeal from the Commission shall be taken by any person or entity claiming to be injured or aggrieved by the final action of the Commission to the Jefferson Circuit Court within 90 days of the Commission's final action, which shall be defined as the date on which the Commission votes to approve or disapprove the matter giving rise to the appeal. If the Council initiates review of the Commission's decision on a proposal for designation of a local landmark, then no appeal shall be filed until the Council makes its decision on said proposal. Appeals from final actions of the Commission, except for the designations of either local landmarks or districts, shall be taken by any person or entity claiming to be injured or aggrieved by the final action of the Commission to the Jefferson Circuit Court within 30 days of the Commission's final action. Regardless of the final action appealed from, the property owner, applicant and the Commission shall be named as parties to the appeal.

(B) An appeal from the Council shall be taken by any person or entity claiming to be injured or aggrieved by the final action of the Council to the Jefferson Circuit Court within 30 days of the Council's final action, which shall be defined as the date on which the Council votes to uphold, amend, or overturn the decision of the Commission on the proposed designation. Should the Council fail to take action on a proposal for designation of a local landmark within the 180-day period as provided in § 32.260(G), then the Council's failure to act shall constitute its final action on said proposal, and any appeal shall be taken within 30 days of that 180th day. The property owner, applicant, Commission and the Council shall be named as parties to the appeal.

(Lou. Metro Ord. No. 106-2009, approved 8-3-2009; Lou. Metro Am. Ord. No. 130-2012, passed 8-9-2012)