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**ARTICLE**

**21**

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**HISTORIC LANDMARK/HISTORIC DISTRICT  
OVERLAY DISTRICT (H)**

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**SECTION 2100**

**Purpose**

The purpose of this article is to encourage protection and preservation of certain areas and neighborhoods or individual properties designated as having substantial prehistoric and/or historic significance and/or architectural integrity. This article is intended to promote the preservation and protection of neighborhoods, areas, places, buildings, structures, sites, and objects having a special or distinctive character or a special prehistoric/historic, aesthetic, architectural or cultural interest or value, and which serve as visible reminders of the history and heritage of Boone County, the Commonwealth of Kentucky or this Nation. This preservation, protection, perpetuation, and use is found to be a public necessity, and is required in the interest of the health, prosperity, safety, welfare, and economic well-being of the people. Additionally, the article permits the county to participate in the Certified Local Government program.

**SECTION 2101**

**Definitions**

As used in this article, the following terms shall mean:

Building: A structure created to shelter human activity.

Certificate of Appropriateness: The document, issued by the Historic Preservation Review Board and the Planning Commission, which gives approval for alterations or additions to, or potential demolition of a building, structure or site in a Historic Overlay District or at the site of a Historic Landmark. A Certificate of Appropriateness must be issued prior to the issuance of a building permit. A Certificate of Appropriateness may contain conditions relating to the proposed work.

Certified Local Government: A government meeting the requirements of the National Historic Preservation Amendments Act of 1980 (P.L. 96-515) and the implementing regulations of the U.S. Department of Interior and the Kentucky Heritage Council.

Demolition: Any act that destroys in whole or in part a building, structure, site, or object in a historic overlay district or on a historic landmark site.

District: A geographically definable area - urban or rural, small or large - possessing a significant concentration, linkage, or continuity of buildings, structures, sites, and/or objects united by past events or aesthetically by plan or physical development.

Fiscal Court: The Boone County Fiscal Court.

Historic District: An area of archaeological, architectural, historical, or cultural significance to the County, State, or nation that meets one or more of the criteria contained in Section 2113 of this article and has been designated by Boone County. The district shall include all lots within the boundaries of the district.

Historic Landmark: A building, structure, site, or object of architectural, historical, or cultural significance to the County, State, or nation that meets one or more of the criteria listed in Section 2113 of this article and has been designated by Boone County. A landmark shall include a historical site that was the location of a significant historical event. A landmark shall include the entire lot containing a landmark, including, related buildings and structures and the land that provides the grounds, the premises, and the setting for the landmark.

HPRB: The Boone County Historic Preservation Review Board.

Kentucky Heritage Council (KHC): The State Historic Preservation Office

Object: A thing of functional, aesthetic, cultural, historic, or scientific value that may be, by nature or design, movable yet related to a specific setting or environment, such as statuary in a designed landscape.

Planning Commission: The Boone County Planning Commission.

Site: The place where a significant event, or pattern of events, occurred. A site may also be the location of a ruined building, structure, or object if the location itself possesses historic, cultural, or archaeological significance.

Structure: A work made up of interdependent and interrelated parts in a definable pattern of organization. Generally constructed by man, it is often an engineering project.

## **SECTION 2102**

### **Applicability of Historic Overlay Regulations**

The H Landmark and District Classifications and these regulations are established in addition to the underlying zone district and regulations pertaining to said underlying district. Where there are conflicts between the procedures and regulations herein established for Historic Landmark or District Overlays and other procedures and regulations in this order, the provisions of this Article shall apply.

## **SECTION 2103**

### **Historic Preservation Activities**

These regulations provide a means to systematically review and protect, as necessary, neighborhoods, areas, places, and buildings, structures, sites, and objects of special and/or distinctive prehistoric, historic, architectural, cultural, or aesthetic significance.

## **SECTION 2104**

### **Historic Preservation Review Board**

A Historic Preservation Review Board (HPRB), as established by Boone County, provides advice and recommendations to the Planning Commission and Fiscal Court on matters pertaining to the implementation of this Article or in furthering the stated purpose of this Article.

## **SECTION 2105**

### **Membership**

The Historic Preservation Review Board shall consist of a minimum of seven members, to be appointed pursuant to the agreement to form a joint planning unit in Boone County and KRS 100.127 (3). The members shall have a demonstrated interest in historic preservation, or local history, and at least two members shall have training or experience in a preservation-related profession such as architecture, history, archaeology, architectural history, planning or a related field. Two professional members shall be appointed to the Board

unless such persons are not available to serve. Board membership may also include a developer, a realtor, community businessperson, or other related professions. Members of the Board shall serve without compensation. In addition, each Board member shall be required to attend at least one informational/educational workshop per year, approved by the State Historic Preservation Office.

Three of the members shall be appointed for three years, two for two years, and one for one year. Subsequently, members shall be appointed for three years. When vacancies occur, a new member shall be selected within 60 days of the vacancy.

## **SECTION 2106**

### **Meetings**

Meetings shall be held at regularly scheduled times and shall be held no less than four times per year. Special meetings can be called by the Chairman or in his/her absence, the Vice-Chairman, or at the request of the Planning Commission. Recommendations by the HPRB shall be made by a majority vote of those members at any meeting where a quorum of members is present. The Rural/Open Space Planner, or a designee shall prepare the minutes of the Board's meetings which shall be available for public inspection. The HPRB shall prepare and keep on file at the Planning Commission office, a written annual report of activities, cases, decisions, qualifications of members and other work. These shall be available for public inspection. The Planning Commission may provide staff and financial assistance to the HPRB. In addition, the HPRB will adopt rules of order and procedure that shall be available for public inspection.

### **Notification Procedure**

When property is under review by the HPRB, notice of the hearing shall be posted conspicuously on the property for fourteen (14) consecutive days immediately prior to the hearing. Notice of the meetings shall be published in a newspaper of general circulation at least once, but may be published two or more times, provided that one publication occurs within seven (7) to twenty-one (21) days prior to the meeting. Such published notice shall state, at a minimum, the date, time, place, and type of meeting.

## **SECTION 2108**

### **Powers and Duties**

The HPRB shall take action necessary and appropriate to accomplish the purposes of this article. These actions include, but are not limited to, acting as a liaison on behalf of the local government to individuals and organizations concerned with historic preservation, conducting a survey of historic buildings and areas and preparing a plan for their preservation; recommending the designation of historic districts and individual landmarks; regulating changes to designated local landmarks and districts including proposed alterations, and new construction; adopting guidelines for changes to designated property; working with and advising the federal, state and county and city governments on historic preservation issues including any federally funded project which comes under Section 106 review; and advising and assisting property owners and other persons and groups including neighborhood organizations who are interested in historic preservation. In addition, these actions may include initiating plans for the preservation and rehabilitation of individual historic buildings and undertaking educational programs including the preparation of publications and the placing of historic markers.

## **SECTION 2109**

### **Nomination to the National Register of Historic Places**

The County, through the Historic Preservation Review HPRB, shall initiate all local nominations to the National Register of Historic Places and shall request the chief elected official and the HPRB to submit recommendations on each proposed nomination to the National Register.

## **SECTION 2110**

### **Hearing for Nomination to the National Register of Historic Places**

A public hearing shall be scheduled to hear comments on the nomination. Such public hearing shall be conducted at the next regularly scheduled HPRB meeting night provided the nomination was received a minimum of fifteen (15) working days prior to the HPRB meeting. The hearing will be the first agenda item. All notifications for the hearing must follow the procedure established within Section 2106.

## **SECTION 2111**

### **Notification to the Kentucky Heritage Council**

Within sixty (60) days of receipt of the nomination, the recommendations of the chief elected official and the HPRB (favorable or not) shall be forwarded to the Kentucky Heritage Council (KHC). At the same time, notification shall be sent to the property owner and/or applicant as to their opinion regarding the eligibility of the property. If both the HPRB and the Chief elected official recommend that a property not be nominated, the KHC will so inform the property owners, the state Review HPRB and the State Historic Preservation Officer and the property will not be nominated unless an appeal is filed with the SHPO under the regulations established for the appeals process which is outlined in the National Historic Preservation Amendments Act of 1980. If either or both the HPRB and the chief elected official agree that the property should be nominated, the nomination will be scheduled for the review by the Kentucky Historic Preservation Review Board (KHPRB). The opinion or opinions of the HPRB and the chief elected official will be presented to them for their consideration.

After considering all opinions, the KHPRB shall make its recommendation to the State Historic Preservation Officer (SHPO). The final decision by the SHPO may be appealed by the HPRB, chief elected official, or the property owner under the aforementioned appeals process.

## **SECTION 2112**

### **Establishment of Historic Landmarks and District Overlays**

The procedure for the establishment of a Historic Landmark/District Overlay shall be as follows:

#### Application for Zoning Action

An application for the establishment of a Historic Landmark or District Overlay may be filed only by the Historic Preservation Review Board, the Planning Commission, the legislative body with jurisdiction over the subject property(s), the owner(s) of the subject property(s) or by a person with written authorization of the owner(s) for Landmarks or Districts in the unincorporated areas of the county. The owner's permission is not required for property within the incorporated areas of the county. Said application shall be filed with the Historic Preservation Review Board in such form as the HPRB may require and in accordance with the requirements and procedures provided in Article 3. Upon the filing of an application the HPRB shall promptly notify the Planning Commission.

## **SECTION 2113**

### **Recommendation by Historic Preservation Review Board**

If the applicant is a party other than the HPRB, that body shall review the application at the next regularly scheduled business meeting, provided the application was received fifteen (15) working days prior to the meeting, and make an official recommendation to the Planning Commission. The HPRB's recommendation shall be forwarded to the Commission for action. The recommendation for an overlay shall strongly consider the desire of the land owner(s), present and intended use (as known), and be based upon the request meeting one or more of the following criteria:

1. Its value as a visible reminder of the cultural heritage of the area, state, or nation;
2. Its location as a site of a significant local, state, or national event;
3. Its identification with a person or persons who significantly contributed to the development of the area, state, or nation;

4. Its identification as the work of a master designer, builder, or architect, whose individual work has influenced the development of the area, state, or nation;
5. Its value as a building that is recognized for the quality of its architecture and that retains sufficient elements showing its architectural significance;
6. Its distinguishing or unusual characteristics of an architectural style valuable for the study of a period, method of construction, or use of indigenous materials;
7. Its character as a geographically definable area possessing a significant concentration, or continuity of sites, buildings, objects or structures, united by past events or aesthetically by plan or physical development;
8. Its character as an established and geographically definable neighborhood, united by culture, architectural style or physical plan and development.

#### **SECTION 2114**

##### **Hearing for Zoning Action**

A public hearing before the Planning Commission shall be scheduled to hear comments on the Historic Landmark/District Overlay. All notifications for the hearing must follow the procedures established within Article 3. At this hearing, the HPRB, through the Rural/Open Space Planner, shall report on the relationship between the proposed designation and the future land use of the county as noted in the Boone County Comprehensive Plan. Additionally, comments by the applicant and other individuals shall be heard.

#### **SECTION 2115**

##### **Recommendation by Planning Commission**

After receiving the recommendation of the Historic Preservation Review Board and conducting a public hearing, the Commission shall vote to approve or deny the request at their next regularly scheduled business meeting. The Commission's recommendation must be based on the HPRB's recommendation and a finding of fact as required in Section 308 of this ordinance.

Results of the Commission vote shall then be sent to the appropriate legislative body or Fiscal Court.

#### **SECTION 2116**

##### **Action by City Council or Fiscal Court**

Within ninety (90) days of receipt of the recommendation from the Planning Commission, the legislative body or Fiscal Court shall either adopt or deny the recommendation of the Planning Commission or adopt some modification thereof. In the event the legislative body or Fiscal Court denies or modifies the recommendation of the Planning Commission, a majority of the entire membership shall be required to take such action, and the applicant shall be notified. This decision is to be sent to the KHC and signed by the chief elected official.

#### **SECTION 2117**

##### **Development in Historic Overlay Zones or to Historic Landmarks**

The Building Inspector shall issue no building permits for the construction, demolition, alteration, change in exterior appearance, moving, of any building, structure, site or object in a Historic Overlay Zone or a Historic Landmark, except as authorized under this article.

#### **SECTION 2118**

##### **Action by Historic Preservation Review Board**

Upon the filing of an application for a building permit in a Historic District or affecting a Historic Landmark, the Building Inspector and Zoning Administrator shall promptly notify the HPRB of such application. The applicant must also complete an application for a Certificate of Appropriateness (COA) and a COA must be approved prior to the issuance of a zoning or building permit. The HPRB shall then discuss the application at their next business meeting, as long as the application is received a minimum of fifteen (15) working days prior to that

meeting. The HPRB, shall require the submission of any or all of the following items (unless they do not apply to a specific proposal): architectural plans, plot plans, landscaping plans, plans for off-street parking, proposed signs, elevations of all portions of proposed structures facing streets, and elevation photographs for perspective drawings showing proposed structures and all such existing structures as are within one hundred (100) feet of the Historic District or Landmark and are substantially related to it visually or by reason of function, traffic generation or other characteristics.

In its review of the material submitted, the HPRB shall examine the architectural design and the exterior surface, treatment of the structures on the site in question, and their relationship to other structures within the area, and other pertinent factors affecting the appearance and efficient functioning of the district or landmark. Conformance with the standards and guidelines in the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, and design guidelines tailored to each historic district, if such guidelines have been adopted, shall be the basis for the HPRB's decision. The HPRB shall not consider any interior arrangements. The HPRB shall vote to approve or disapprove the application within ninety (90) days after the application is filed for a building permit with the Building Inspector.

#### **SECTION 2119**

##### **Approval by HPRB**

If the HPRB approves the application for a COA in a Historic District or at the site of a Historic Landmark, it shall immediately forward its recommendations in writing, stating the reasons for such approval to the Planning Commission. The Commission shall promptly cause a COA to be issued to the applicant, and shall at the same time transmit a copy of said certificate to the Building Inspector. Upon receipt of the COA, the Building Inspector shall issue the building permit if it meets all other requirements of the law. The Building Inspector shall inspect the construction or alteration approved by such certificate from time to time and report to the HPRB and the Commission any work not in accordance with such certificate.

#### **SECTION 2120**

##### **Disapproval by Historic Preservation Review Board**

If the Historic Preservation Review Board denies an application for a COA in a Historic District, it shall promptly transmit a written statement of the reasons for such disapproval to the Planning Commission and send a copy of that statement to the applicant.

#### **SECTION 2121**

##### **Appeal Process**

In the event the Historic Preservation Review Board denies an application for a building permit COA in a Historic Overlay, the applicant for said permit may appeal to the Planning Commission, which shall hold a public hearing thereon and shall vote on said appeal within thirty (30) days after the notice of appeal is filed with the Commission. The Commission shall give notice of the Public Hearing in accordance with Section 2114 of this order. If the Commission votes to recommend that the application for a building permit be approved, it shall issue a COA to the applicant and transmit a copy to the Building Inspector.

If the Commission votes to uphold the HPRB's denial of a COA, it shall transmit its decision in writing to the Building Inspector. In such cases, no building permit shall be issued by the Building Inspector on said application for a period of six (6) months from the date of the decision of the Commission. During this period, representatives from the Planning Commission, the HPRB and the applicant shall undergo meaningful discussions for the purpose of finding a method to resolve the issues resulting in the Commission's denial of the COA. The Commission shall also investigate the feasibility of preserving the historic structure or the integrity of the historic district through such actions as leasing, sub-leasing, or acquisition of all or part of interest in the property.

**SECTION 2122****Failure of Historic Preservation Review Board to Act**

Upon failure of the HPRB to take action upon any case within ninety (90) days after the application for a building permit has been filed with the Building Inspector, and unless a mutual agreement between the HPRB and the applicant has been made for an extension of said time, the application shall be deemed to be approved and the Planning Commission shall promptly issue a COA as provided herein above.

**SECTION 2123****Demolition in Historic Districts or of Historic Landmarks**

No permit for the demolition of all or any part of a structure in a Historic Overlay shall be issued by the Building Inspector unless the Commission shall certify that the demolition permit may be issued through the issuance of a COA. The procedure for issuance of such a certificate shall be as provided by Section 2115 through 2120. The HPRB and the Commission shall review the importance of preservation of said structure, the KHC will be notified for assistance, and a means of preserving the structure shall be sought.