

CHAPTER 156: HISTORIC PRESERVATION

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S 156.01 PURPOSE AND DECLARATION OF PUBLIC POLICY

(A) The City Council finds that buildings and neighborhoods having historic, architectural or cultural interest and value have been neglected, altered or destroyed notwithstanding the feasibility and desirability of preserving and continuing the use of such buildings and neighborhoods and without adequate consideration of the irreplaceable loss to the public.

(B) The Council finds that the historic character of LaGrange is of vital importance in maintaining the economy of the city and that its historic buildings and neighborhoods can be preserved, improved and used by means of appropriate changes.

(C) The Council finds that LaGrange has well established residential and business districts and that the history of the city is shown today through buildings representing the activities and events during its growth. The Council finds that the city has buildings and areas that represent the persons who live and work or have lived and worked in LaGrange during a period of more than 100 years. It is the finding of the City Council that the distinctive and significant character of this city can only be maintained by protecting and enhancing its historic, architectural and cultural heritage and by preventing unnecessary injury or destruction of its landmarks and historic districts which are civic and community assets.

(D) The Council finds that the Federal and Kentucky governments have passed laws to protect and preserve landmarks and historic districts, that some of these laws provide incentives for historic preservation, and that the National Historic Preservation Act was amended in 1980 to establish a Certified Local Government Program creating a new federal-state-local partnership to encourage the efforts by cities to protect and preserve their landmarks and historic districts.

(E) The Council finds that this chapter benefits all the residents of LaGrange and all the owners of property.

(F) The Council finds that individual historic preservation projects have already been undertaken in LaGrange and that this chapter will encourage additional preservation work that will be important in achieving the goals of the city.

(G) The City Council declares as a matter of public policy that the preservation, protection and use of landmarks and historic districts is a public necessity because they have a special character or a special historic, architectural or cultural interest and value and thus serve as visible reminders of the history and heritage of this city, state and nation. The Council declares as a matter of public policy that this chapter is required in the interest of the health, prosperity, safety, welfare and economic well being of the people.

(H) The purpose of this chapter is to effect the goals as set forth in the above declarations of public policy and specifically, but not exclusively to:

(1) Accomplish the preservation, protection, and use of historic districts, landmarks and landmark sites having a special character or special historic, architectural or cultural interest and value to this city, state and nation;

(2) Stabilize and improve property values in such districts and the city as a whole;

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

(4) Strengthen the economy of the city;

(5) Protect and enhance the city's attractions to residents, tourists and visitors and serve as a support and stimulus to business; and

(6) Enhance the visual and aesthetic character, diversity and interest of the city.

(Ord. 7-39, passed 7-3-89)

S 156.02 DEFINITIONS.

As used in this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"CERTIFIED LOCAL GOVERNMENT PROGRAM." 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 the Interior and the Kentucky Heritage Council.

"COMMISSION." The LaGrange Historic District Commission.

"DEMOLITION." Any act that destroys in whole or part a landmark or a building or structure in a historic district or on a landmark site.

"HISTORIC DISTRICT." An area meeting one or more of the criteria contained in S 156.06(E).

"LANDMARK." A building, structure or site meeting one or more of the criteria contained in S 156.06(E).

"LANDMARK SITE." The land on which a landmark and related buildings and structures are located and the land that provides the grounds, the premises or the setting for a landmark.

"PROPERTY." All structures, including fences and buildings but does not pertain to landscaping.

(Ord. 7-39, passed 7-3-89)

S 156.03 HISTORIC DISTRICT COMMISSION.

(A) There is hereby established the LaGrange Historic District Commission. The Commission shall consist of no less than five nor more than twelve members who are property owners of the city or who have demonstrated knowledge of or interest in the preservation of historical and architectural landmarks(amended Ord 11-2005). When the Commission reviews an issue that is normally evaluated by the member of a recognized or licensed professional and that field is not represented on the Commission, the Commission may seek expert advice before rendering its decision. Members of the Commission shall serve without compensation, but they shall be reimbursed for expenses incurred in the performance of their duties in accordance with the rules adopted by the Commission. All funds received by the Commission either in the form of grants or donations will be received and disbursed by the City Clerk.

(B) The members may be selected from but are not limited to (amended Ord 11-2005) the following organizations or professions, and shall be appointed by the Mayor and approved by City Council members.

(1) Licensed real estate agent.

(2) Architect.

(3) Member from the Chamber of Commerce.

(4) Member from the Oldham County Historical Society.

(5) Members representing the area designated in the National Register of Historic Places.

(6) Member representing the business district of LaGrange.

(7) Member from Tri-County Senior Citizens Group.

(8) An attorney with interest and/or experience in preservation law.

(C) Appointments to the Commission shall, whenever possible, be consistent with the above guidelines as to individual membership. Whenever possible, appointments should be made primarily from the above listed organizations, but when nominees are not available from such organizations the Mayor and City Council have the right to nominate other interested individuals.

(D) The initial terms of office of the members shall be three years, except the terms of two members of the original Commission shall expire after two years and the terms of two members of the original commission shall expire after one year. Each member shall serve until the appointment and qualification of his/her successor. When a vacancy occurs during a term of office, the Mayor and City Council shall fill it within 60 days, and the person selected shall be appointed for the unexpired portion of the term.

(E) The Commission should keep accurate attendance figures and report annually in the attendance of members. In the event that any member of the Commission is absent from more than one-third of the regularly scheduled meetings, the Commission reserves the right to reconsider such Commission member's appointment and recommend to the Mayor and City Council to replace such Commission member for the reason of excessive absenteeism. Such replacement shall be consistent with the general appointive guidelines of this section.

(F) No member of the Commission shall vote on any matter that may affect the property, income or business interests of that member.

(G) Members of the Commission may be reappointed for consecutive terms. After the initial appointments, all appointments shall be made for a term of two years.

(H) The Commission shall each year elect members to serve as Chairperson, Vice-Chairperson, Secretary and Treasurer. The Secretary of the Commission shall be elected by the Commission, but need not be a member of the Commission. The Secretary will keep full minutes of all meetings and, upon approval by the Commission, will file said minutes with the City Clerk who will file and maintain them in a manner similar to that provided for minutes of meetings and any of the Commission's other records. The Chairperson shall preside at the meetings of the Commission and shall be the spokesperson for the Commission. In his/her absence, the Vice-Chairperson shall perform these duties. The Secretary shall prepare the minutes of the Commission's meetings, which shall be available for public inspection.

(I) A majority of the members of the Commission will constitute a quorum, empowered to conduct the Commission's business.

(J) The Commission will adopt a set of guidelines for the transaction of its business, which will provide for the time and place of regular meetings and for the calling of special meetings by the Chairman or by at least two members of the Commission.

(K) All meetings of the Commission will be open to the public and a public record will be kept of the Commission's resolutions, proceedings and actions. (Ord. 7-89 passed 7-3-89)

S 156.04 POWERS AND DUTIES OF THE COMMISSION.

(A) The Historic District Commission shall have the following powers and duties:

(1) Conducting a survey of historic buildings and areas and preparing a plan for their preservation;

(2) Recommending to the City Council the designation of historic districts and individual landmarks and landmark sites, but limited to those as designated by the survey conducted for the National Register of Historic Places;

(3) Any rules and regulations necessary to carry out its functions under the provisions of this chapter shall be recommended by the Commission for approval by the Mayor and City Council;

(4) Promote public interest in the purposes of this chapter;

(5) Recommending to city Council written guidelines for making exterior changes to designated property and for undertaking new construction on designated property;

(6) The Commission shall be empowered to issue a Certificate of Appropriateness upon a majority vote of a quorum. It shall be signed by the Chairperson (or Vice-Chairperson) and Secretary.

(7) Regulating alterations visible to the public that are proposed for designated property; regulating demolitions, relocations, and new construction involving designated property based on the guidelines set forth in this chapter;

(8) Working with and advising the federal, state and county governments and other parts of the city government;

(9) Advising and assisting property owners and other persons and groups including neighborhood organizations who are interested in historic preservation;

(10) Encouraging and undertaking where necessary the publication of uniform and complementary maps, brochures and descriptive material about such landmarks, landmark sites and preservation districts, and the placing of historical markers.

(B) The Commission may initiate and encourage plans for the preservation and rehabilitation of individual historic buildings. The Commission should, on a regular basis, give recognition to owners and tenants who maintain or rehabilitate their historic buildings with care and thus contribute to the preservation of the history of LaGrange.

(C) In making its survey of historic buildings and areas, the Commission shall conduct this work in accordance with the guidelines of the Kentucky Heritage Council. The Commission shall provide that its survey and preservation plan shall be maintained and continued. The Commission shall use the preservation plan to assist the city and Oldham County in their overall planning efforts.

(D) The Commission shall prepare comments on the relationship between LaGrange Historic Districts and landmarks and plans for redevelopment projects. These comments shall include suggestions on how to link the new and old buildings.

(E) The Commission shall adopt and make public rules for the transaction of its business and shall hold at least four public meetings annually, and special public meetings when necessary. All meetings shall have a previously available agenda and shall comply with the Kentucky Open Meetings Statute, KRS 51.805. A majority of quorum of the membership shall be required for decisions involving historic buildings and areas.

(F) In the development of the Certified Local Government Program, the city may ask the Commission to perform other responsibilities that may be delegated to the City under the National Historic Preservation Act.

(Ord. 7-89, passed 7-3-89)

S 156.05 NOMINATIONS TO THE NATIONAL REGISTER OF HISTORIC PLACES.

(A) To participate in the Certified Local Government program, the city shall initiate all local nominations to the National Register of Historic Places and shall request the Mayor and City Council and the Historic District Commission to submit recommendations on each proposed nomination to the National Register. The Mayor, City Council and the Commission shall obtain comments from the public that shall be included in their National Register recommendations. Within 60 days of the receipt of a nomination from a private individual or the initiation of a nomination by the city, the city shall inform the Kentucky Heritage Council and the owner of the property of the two recommendations regarding the eligibility of the property. If the Mayor, City Council, and the Commission do not agree, both options shall be forwarded in the city's report. If the Mayor, City Council, and the Commission do not agree, both options shall be forwarded in the city's report. If the Mayor, City Council, and the Commission recommend that a property not be nominated, the Kentucky Heritage Council shall inform the property owner, the Kentucky Heritage Preservation Review Board and the State Historic Preservation Officer, and the property will not be nominated unless an appeal is filed with the State Historic Preservation Officer.

(B) If the Mayor, City Council and the Commission agree that a property should be nominated, the nomination will receive a preliminary review by the Kentucky Historic Preservation Review Board. The Review Board shall make a recommendation to the State Historic Preservation Officer who decides whether to forward the nomination to the U.S. Secretary of the Interior who shall make the decision on listing the property on the National Register. The Mayor, City Council, and the Commission or the property owner may appeal the final decision by the State Historic Preservation Officer.

(Ord. 7-89, passed 7-3-89)

S156.06 DESIGNATION OF LANDMARKS AND LANDMARK SITES AND HISTORIC DISTRICTS.

(A) The City Council and/or property owner may request the Historic District Commission to study his/her building in order to make a recommendation on whether it qualifies for designation as a landmark and landmark site. Each designation of a landmark shall include the designation of a landmark site.

(B) The Commission shall assemble information about a property or district being considered for designation and shall schedule a public hearing on the proposed designation. Prior to the hearing the Chairperson or other members of the Commission may have an individual meeting with an owner or a tenant of a building under construction for designation as a landmark or as a part of a historic district. The purpose of the meeting shall be to explain the provisions of this chapter and to answer questions about how a designation would affect the owner or tenant. Prior to the hearing the Commission may hold an educational meeting in an area or neighborhood under consideration in order to explain the provisions of this chapter and to answer questions.

(C) Pursuant to KRS Chapter 424, advertised notice of the public hearing shall be given, to include conspicuous posting on the property or in public publication, in the proposed district for the 14 consecutive days immediately prior to the hearing. Notice of the hearing may be given at least 14 days in advance of the hearing by first class mail to the owners of property under consideration and the owners of all adjoining properties, or may be delivered in person. Written notice shall be considered sufficient when it is mailed to the person listed as owner in the records maintained by the Property Valuation Administrator.

(D) Before its first public hearing on a designation, the Commission shall recommend and gain approval for general guidelines that will apply to LaGrange's landmarks and historic districts. The Mayor and City Council shall approve the guidelines. The Commission will provide information and guidance to owners in the preservation and rehabilitation of their property. The general guidelines shall include the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings and may include other guidelines that will apply to all designated property in the city. In its guidelines and in its decisions, the Commission shall not limit new construction to any one architectural style, but shall seek to preserve the character and integrity of the landmark or the historic district.

(E) The Commission may expand or amend the guidelines provided it holds a public hearing on the changes and submits the proposed changes to the Mayor and City Council for approval.

(F) A landmark or historic district shall qualify for designation when it meets one or more of the following criteria, which shall be discussed in a Commission report making its recommendations to the Mayor and City Council:

(1) Its value as a reminder of the cultural or archaeological heritage of the city, 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 city, state or nation;

(4) Its identification as a work of a master builder, designer, or architect whose individual work has influenced the development of the city, 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 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 of buildings or structures united by past events or by its plan or physical development; or

(8) Its character as an established and geographically definable residential neighborhood or business district, united by culture, architectural style or physical plan and development.

(G) After evaluating the testimony, survey information and other material it has assembled at its public hearing, the Commission shall make its recommendation to the Mayor and City Council with a written report on the property or area under consideration. In its report the Commission may set goals for a proposed historic district in order to encourage appropriate work in the district.

(H) The Oldham County Joint Planning and Zoning Commission shall report to the Mayor and City Council on the relationship between the proposed designation and any existing or proposed plans for development of the city. The Planning Commission's comments shall consider how the proposed designation may affect the community's zoning ordinance, zoning district map and comprehensive plan.

(I) The Mayor and City Council shall approve, modify or disapprove the proposed designation within 60 days after receiving the recommendation from the Commission.

(J) The Commission shall notify each owner of the decision relating to his property and shall arrange that the designation of property as a landmark or as a part of a historic district be recorded in the land records of the county. The Commission shall also give notice of the decision to the government offices in the city and county, which shall retain them for future reference.

(K) The amendment or recision of any designation shall be accomplished through the same steps as were followed in the original designation.

S 156.07 APPROVAL OF CHANGES TO LANDMARKS, LANDMARK SITES, AND PROPERTY IN HISTORIC DISTRICTS.

(A) The Historic Districts Commission will adopt a set of guidelines that will apply to LaGrange's landmarks and historic districts for the transaction of its business. The guidelines will also provide for the time and place of regular meetings and for the calling of special meetings by the Chairman or by at least two members of the Commission. The Commission shall recommend and gain approval for the guidelines from the Mayor and City Council. Once approved, all subsequent changes to the guidelines will require approval from the Mayor and City Council.

(B) When a person wishes to undertake an exterior alteration affecting a landmark, a landmark site, or a property in a historic district, or when a person wishes to undertake new construction, a demolition or a relocation affecting a landmark, a landmark site or a property in a historic district, that person shall apply to the Commission for a Certificate of Appropriateness. This application is required even when the proposed work does not require a building permit.

(C) No building permit shall be issued for any designated property unless an approved Certificate of Appropriateness or proper waiver form is submitted to the building official as part of the permit application.

(D) Specifics guiding the decision making process when determining if a Certificate of Appropriateness should be issued will be established within the guidelines for the Commission, as approved by the Mayor and City Council.

(E) When applying to the Commission for a Certificate of Appropriateness, it is the burden of the applicant to provide adequate supportive documentation and information for the Commission to make an appropriate decision. Where applicable, the applicant shall provide drawings of the proposed work, photographs of the existing building, structure or site and adjacent properties, and information about the building materials to be used. The Commission will be guided by the information provided by the applicant and the approved guidelines when making their decision.

(F) The Commission will treat all applications fairly and impartially. If a conflict of interest, or perceived conflict of interest exists for a Commission member, that member will remove himself or herself from the decision making process. Possible conflicts resulting from *ex parte* contacts or communication will be avoided by all Commission members. An *ex parte* contact or communication is an oral or written communication that is not on the public record, and of which other interested parties are not given reasonable prior notice. An example of an *ex parte* contact is an interested party discussing an application with a Commission member outside of a public meeting prior to the application review.

(G) In the event work is being performed without the required Certificate of Appropriateness, upon recommendation from the Commission the Chief of Police or his designee shall issue a stop work order. All work shall cease on the designated property. No additional work shall be undertaken as long as such stop work order shall continue in effect. The Commission shall meet with the owner or tenant to resolve the problem. The city may apply in Circuit Court for an injunction to enforce its stop work order.

(H) The Commission shall approve or disapprove each application, and it shall give its reasons for its decision using the criteria contained within this section and in its guidelines. The Commission may suggest modifications to an application and, if those modifications are acceptable to the applicant, may then approve a certificate of appropriateness providing for revisions in the plans submitted.

(I) Applicants shall be given notice of the public hearings and meetings relating to their application and shall be informed of the Commission's decision. When an application has been approved, the applicant shall be given a certificate of appropriateness. Notice of the hearing shall be given pursuant to S 156.06(C).

(J) In making a decision on an application, the Commission shall use its guidelines. The Commission shall consider: the effect of the proposed work on the landmark, the landmark site or the property in the historic district upon which such work is to be done, and the relationship between such work and other buildings and structures on the landmark site or other property in the historic district. In evaluating the effect and the relationship, the Commission shall consider historical and architectural significance, architectural style, design, texture and materials. The certificate from the Commission shall not relieve the property owner from complying with the requirements of other state and local laws and regulations.

(K) In making a decision on an application, the Commission shall be aware of the importance of finding a way to meet the current needs of the applicant. The Commission shall also recognize the importance of approving plans that will be reasonable for the applicant to carry out. Before an applicant prepares his plans, he may bring a tentative proposal to the Commission at a normally scheduled meeting for its comments and suggestions.

(L) When an applicant wishes to move a landmark, a building or structure on a landmark site, or a building or structure in a historic district or when an applicant wishes to move a building or structure to a landmark site or to a property in a historic district, the Commission shall consider: the contribution the building or structure makes to its present setting; whether there are definite plans for the site to be vacated; whether the building or structure can be moved without significant damage to its physical integrity; and the compatibility of the building or structure to its proposed site and adjacent properties. These considerations shall be in addition to the points contained in S 156.06(F).

(M) When considering an application to demolish a landmark, building or structure on a landmark site, or a building or structure in a historic district, the Commission shall follow the guidelines approved by the Mayor and City Council. The Commission may negotiate with the applicant to see if an alternative to demolition can be found. After its public hearing, the Commission may decide that a building or structure in a historic district or on a landmark site may be demolished because it does not contribute to the historic district or to the landmark. On all other demolition applications, the Commission shall study the question of economic hardship for the applicant and shall determine whether the landmark or the property in the historic district can be put to reasonable beneficial use without the approval of the demolition application. In the case of an income producing building, the Commission shall also determine whether the applicant can obtain a reasonable return from his building. The Commission may ask applicants for additional information to be used in making these determinations. If economic hardship or the lack of a reasonable return is proved, but the landmark or the property in the historic district can be put to reasonable beneficial use without the approval of the demolition application, the Commission will deny the application but work with the applicant to try to find a reasonable solution to the issue. If economic hardship or the lack of a reasonable return is not proved, the Commission shall deny the demolition application unless the Commission finds grounds to grant the demolition application under the points contained in S 156-06(F).

(N) The applicant shall have a *de novo* appeal to the full City Council from a decision of the Commission on an application for a Certificate of Appropriateness. The appeal process shall expire after an appropriate time of 30 days following final action. Any appeal from the final decision of the Council shall be taken within 30 days to the Circuit Court. (Ord. 7-89, passed 7-3-89) For any *de novo* appeal to the Council the following procedure will be followed:

(1) The findings and decisions of the Commission shall be presented to the Council;

(2) Presentation of evidence by the applicant (or representative);

(3) Presentation of evidence from others who wish to speak in behalf of the application;

(4) Questioning of those speaking in behalf of the application by the City Council Members;

(5) Questioning of those speaking in behalf of the application by the opposition;

(6) Presentation of evidence by those who wish to speak in opposition to the application;

(7) Questioning of those speaking in opposition by the City Council Members;

(8) Questioning of those speaking in opposition to the application by the applicant or representative;

(9) Final statement by the opposition;

(10) Final statement by the applicant;

(11) All who speak concerning the application, either for or against shall be available for questioning. If anyone leaves and is unavailable for questioning, his or her evidence shall be stricken from the record and the Council shall disregard such evidence in its decision;

(12) Anyone who speaks concerning the application shall take an oath in regard to his or her testimony, and give his or her name and address;

(13) After the final statement of the applicant or representative, no further evidence or comments shall be received by the Council; and

(14) If at any time any Council Member feels the evidence being presented by the applicant or the opposition should have been presented to the Commission prior to the Commission making its decision, then the Council Member may move that the hearing be adjourned and the application returned to the Commission for further proceedings. (Ord. 7-39, passed 7-3-89; Am. Ord. 3-92, passed 4-6-92)

S 156.08 CONFORMITY WITH THE CERTIFICATE OF APPROPRIATENESS

All work performed pursuant to a certificate of appropriateness shall conform to the provisions of such certificate. It shall be the responsibility of the Historic District Commission to inspect from time to time any work being performed to assure such compliance. In the event work is being performed which is not in accordance with such certificate, the city shall issue a stop work order. All work shall cease on the designated property. No additional work shall be undertaken as long as such stop work order shall continue in effect. The Commission shall meet with the owner or tenant to resolve the problem. The city may apply in Circuit Court for an injunction to enforce its stop work order. (Ord. 7-89, passed 7-3-89)

S 156.09 MAINTENANCE AND REPAIR OF LANDMARKS AND LANDMARK SITES AND PROPERTY IN HISTORIC DISTRICTS.

(A) Every person in charge of a landmark and a landmark site or a property in a historic district shall keep in good repair: all of the exterior portions of such buildings or structures; and all interior portions thereof which, if not so maintained, may cause such buildings or structures to deteriorate or to become damaged or otherwise to fall into a state of disrepair. The purpose of this section is to prevent a person from forcing the demolition of his building by neglecting it and by permitting damage to the building because of weather or vandalism. No provision in this chapter shall be interpreted to require an owner or tenant to undertake an alteration or to restore his building to its original appearance.

(B) Ordinary repairs and maintenance may be undertaken without a Certificate of Appropriateness provided this work on a landmark, a landmark site or a property in a historic district does not change its exterior appearance as visible to the public. The Historic Districts Commission and its approved guidelines will determine what is considered ordinary repairs and maintenance.

(C) The Commission shall request a meeting with a property owner when his landmark or his building in a historic district is in poor repair, and the Commission shall discuss with the owner ways to improve the condition of his property.

(D) An owner shall immediately notify the city of emergency conditions dangerous to life, health or property affecting a landmark, a landmark site, or a property in a historic district, and the owner shall immediately start and complete the work required to make his property safe. In any case where the city determines that there are emergency conditions dangerous to life, health or property affecting a landmark, a landmark site, or a property in a historic district, the city shall order the remedying of these conditions without the approval of the Commission. The city shall promptly notify the Chairperson of the Commission of the action being taken.

(E) The provisions of this section shall be in addition to all other provisions of the Kentucky Building Code and/or BOCA Basic/National Existing Structures Code 1984 requiring buildings and structures to be kept in good repair. (Ord. 7-89, passed 7-3-89)

S 156.99 PENALTY

Any person or entity who violates any of the provisions of this chapter shall be guilty of a misdemeanor and shall be fined not less than \$50 but no more than \$500 for each conviction. Each day of violation shall constitute a separate offense. (Ord. 7-89, passed 7-3-89)