

CHAPTER 1131 DESIGN REVIEW

1131.01 PURPOSE

The purpose of this Chapter is to promote the health, safety and welfare of the citizens of the City by providing for the identification, protection, enhancement, perpetuation and use of areas, places, buildings, structures, works of art and other objects having a special historical, community or aesthetic interest or value, so that the following objectives are reached:

- A. To maintain and enhance the distinctive and/or aesthetic character, diversity and interest of the City.
- B. To safeguard the architectural integrity of the City's design review district(s).
- C. To contribute to the economic, cultural, and educational development of the City by:
 - 1. stimulating business and attracting industry;
 - 2. protecting and enhancing attractions to residents, tourists, visitors;
 - 3. stabilizing and improving property values;
 - 4. improving the quality of life by enhancing the visual and aesthetic character, diversity, and interest of the City;
 - 5. fostering civic pride in the beauty and notable accomplishments of the past; and,
 - 6. promoting the use and preservation of historic locations, architecturally significant structures, and other notable objects and sites for the education, enrichment, and general welfare of the residents of the City and the State of Ohio.

1131.02 DEFINITIONS

The following definitions shall apply only to this Chapter:

- A. **ALTER** or **ALTERATION**: Any material change in external architectural feature of any commercial or industrial property which lies within a Design Review District, including demolition, construction, modification to existing signage or placement of new signage, roofs, windows, siding, awning/canopies, additions, doors/entrances, murals, works of art, and painting that changes the color of the paint, but not including the landscaping of real property.
- B. **APPLICANT**: Any owner(s), person(s), association, partnership, or corporation who applies for a Certificate of Appropriateness in order to undertake any project subject to this Chapter.
- C. **CONTRIBUTING PROPERTY**: a building, structure, site or object that, as determined by the Design Review Board, adds to the historic or architectural value of a designated Design Review District because it was present during the period of

historic significance and/or it preserves such historic integrity that it yields important information about such Design Review District.

- D. **COUNCIL:** Members of the Council of the City of Orrville, Ohio.
- E. **DEMOLITION:** the razing or removing of all or a substantial portion of a building, structure, or appurtenance from a Design Review District.
- F. **DESIGN REVIEW BOARD:** The Design Review Board established under the provisions of this Chapter.
- G. **DESIGN REVIEW DISTRICT:** Any area within the corporation limits of Orrville, Ohio, designated by Council to be subject to the provisions of this Chapter.
- H. **DESIGN REVIEW GUIDELINES:** adopted by the Design Review District and City Council that details the architectural characteristics for any Design Review District therein, and that provides design guidance for appropriate maintenance, repair, construction or alteration pursuant to the provisions of this Chapter.
- I. **EXTERNAL ARCHITECTURAL FEATURE:** The architectural style, general design and arrangement of the exterior of a structure including, but not limited to: the type, color, and texture of the building material, doors, windows, roof, porches, and other appurtenant fixtures.
- J. **NON-CONTIBUTING STRUCTURE:** a building structure, site or object within a designated Design Review District that, in the determination of the Design Review Board, does not meet the criteria cited in 1131.02 C above.
- K. **NORMAL AND ORDINARY MAINTENANCE:** Repairs that do not alter the appearance of the building, structure, works of art, or painting that does not change the existing color.
- L. **MEMBER:** Any member of the Design Review Board, as established under the provisions of this Chapter.

1131.03 ESTABLISHMENT OF DESIGN REVIEW BOARD

- A. There is hereby established a Design Review Board, which shall have the powers and duties as are hereinafter set forth in this Chapter. The Board shall consist of seven members, who shall be appointed by the Mayor, subject to confirmation from Council. Design Review Board members shall be appointed with due regard for the need to include Design Review District property owners as members and members with professional expertise in the fields of architecture, engineering, history, archaeology, urban planning, landscape architecture, art design or other related disciplines. The Design Review Board should, to the greatest extent possible, consist of 1) an architect; (2) a real estate agent; (3) a Council member or designee; (4) a

historian; (5) a member of the Orrville Main Street organization; and (6) two Design Review District business or building owners. If the Board does not have members from each of these disciplines at any particular time, that board member seat may remain vacant until filled, and the City can enter into contracts for technical/professional assistance in the discipline not represented. All members shall be residents of the City of Orrville except that the architect and the two Design Review District business or building owners may be non-residents.

- B. Members shall be appointed to serve three-year terms. Members shall serve until their successors have been named and qualified. A majority of the membership of the Board shall constitute a quorum.

1131.04 POWERS AND DUTIES OF THE DESIGN REVIEW BOARD

- A. The Design Review Board shall annually select one of its members to serve as chairperson and one as vice-chairperson. The Safety-Service Director shall provide such staff assistance as is necessary and available. All municipal departments and agencies shall cooperate in expediting the work of the Design Review Board.
- B. The Design Review Board may adopt rules, regulations, and design guidelines, consistent with this Chapter, governing its procedures and transactions. The Design Review Board shall meet as required to carry out the review of applications for Certificates of Appropriateness, and such other related work as may be accepted through the request of Council or undertaken on its own motion.
- C. Meetings shall be held at least once each month when there are applications to be considered. Special meetings may be held at the call of the chairperson of the Design Review Board. (Ord. G-11, Passed 9-19-11)
- D. Within the boundaries of the Design Review District, the Design Review Board shall review any proposed new construction, reconstruction, alterations, and demolition to property as herein defined. The Board's approval of such new construction, reconstruction, alteration, or demolition shall be secured before any owner of property may commence work thereon.

1131.05 CONFLICT OF INTEREST

Members of the Design Review Board shall abstain from taking action on any matter that would present a conflict of interest. No member of the Board shall have a financial interest in any matter pending before the Board. In the event such conflict arises, the affected member shall abstain from discussion and voting on the issue or matter in which he or she has such an interest.

1131.06 ESTABLISHMENT OF DOWNTOWN DESIGN REVIEW DISTRICT

The Downtown Design Review District of the City is hereby defined to compromise all the area within the City limits within the following boundaries:

- the properties on the west side of North Walnut Street from East Market Street north to East Church Street;
- the properties on both sides of North and South Main Street from Chestnut Street north to Church Street;
- the properties on both sides of North Vine Street from railroad alley north to West Church Street;
- the properties on both sides of Depot Street;
- the properties on both sides of Liberty Street;
- the properties on both sides of East and West Market Street from Walnut Street west to Sterling Avenue;
- the properties on the south side of East and West Church Street from North Walnut Street west to North Vine Street; and
- the properties on both sides of East and West Water Street from North Walnut Street to the westerly end of dedication.

1131.07 CERTIFICATE OF APPROPRIATENESS REQUIRED

No new construction, reconstruction, alteration, or demolition of any structure (or any significant exterior architectural feature thereof) in any designated Design Review District shall be undertaken prior to obtaining a Certificate of Appropriateness from the Office of the Safety-Service Director. No approval shall be issued by the Safety-Service Director for the construction, reconstruction, alteration, modification, or demolition of any area, place, site, building, structure, object, or work of art within a designated Design Review District unless the application for such permit is approved by the Design Review Board through the issuance of a Certificate of Appropriateness in the manner prescribed herein.

1131.08 TRIGGERING MECHANISM FOR DESIGN REVIEW

- A. Once a property owner applies to the Office of the Safety-Service Director for an alteration within the Design Review District, the application will be deemed as an application to the Design Review Board.
- B. All property owners (with the exception of solely residential property) within the Design Review District must receive Design Review Board approval prior to issuance of a Certificate of Appropriateness. All alterations, as defined in 1131.02 A, shall require a Certificate of Appropriateness.

1131.09 APPLICATION FOR CERTIFICATE OF APPROPRIATENESS

- A. When the owner of a property within a Design Review District proposes new construction, reconstruction, alteration, or demolition to any structure, or portion of a

structure within the District, he/she shall first apply through the Office of the Safety-Service Director for and secure a Certificate of Appropriateness from the Design Review Board. The application shall include the following as well as other material as the Design Review Board may from time to time prescribe:

1. A site plan showing building outlines, dimensions, and landscaping;
 2. Photographs of the building, site, structure or object as appropriate;
 3. A complete description of the proposed architectural change, including drawing or photographs to illustrate the proposal as may be needed; and
 4. An explanation by the applicant as to how the proposed alteration is consistent with the purposes and guidelines of this Chapter.
- B. An applicant may submit plans for a “conceptual review” to the Design Review Board. A “conceptual review” is an unofficial review to provide guidance to an applicant. However, “conceptual review” guidance is not approval of a Certificate of Appropriateness and does not entitle an applicant to claim approval or a right to be issued a Certificate of Appropriateness.
- C. Applications shall be filed in the Office of the Safety-Service Director at least fourteen (14) calendar days prior to the regularly scheduled meeting of the Design Review Board.
- D. If no action is taken by the Design Review Board within sixty (60) days of filing the application, the application shall be deemed approved and the Certificate of Appropriateness shall be issued. The tabling or continuation of an application due to incomplete information provided by the applicant or at the request of the application shall not be considered as “no action” for the purposes of this Section.

1131.10 CRITERIA FOR REVIEW OF APPLICATION FOR CERTIFICATE OF APPROPRIATENESS

- A. In reviewing proposed alterations to property, the Design Review Board may at a minimum use as evaluative criteria the ten federal standards established by the Secretary of the U.S. Department of the Interior. The Standards are to be applied to projects in a reasonable manner, taking into consideration economic and technical feasibility:
1. Every reasonable effort shall be made to provide a compatible use for a property, which requires minimal alteration of the building, structure, or site and its environment, or to use a property for its originally intended purpose.
 2. The historic character of a property shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.
 3. All buildings, structures, and sites shall be recognized as products of their own time. Alterations that have no historical basis, and which seek to create an earlier appearance shall be discouraged.

4. Changes, which may have taken place in the course of time, are evidence of the history and development of a building, structure, or site and its environment. These changes, which may have acquired significance, shall be recognized and respected.
 5. Distinctive stylistic features or examples of skilled craftsmanship, which characterize a building, structure, or site, shall be treated with sensitivity.
 6. Deteriorated architectural features shall be repaired rather than replaced, whenever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visible qualities. Repair or replacement of missing architectural features should be substantiated by historic, physical, or pictorial evidence rather than on conjectural designs or the availability of different elements from other buildings or structures.
 7. The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage historic building materials shall not be undertaken.
 8. Every reasonable effort shall be made to protect and preserve archeological resources affected by, or adjacent to, any project.
 9. Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural, or cultural materials, and such design is compatible with the size, scale, color, material, and character of the property, neighborhood, or environment.
 10. Whenever possible, new additions or alterations to structures shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.
- B. The Design Review Board may also utilize the U.S. Secretary of Interior's Guidelines for Rehabilitating Historic Buildings in their review and deliberation.
- C. The Design Review Board may amend and/or impose more refined design review guidelines or criteria with Council approval based on the Design Review District's predominant architecture, historical significance, and its cultural/archeological attributes.

1131.11 ISSUANCE OF A CERTIFICATE OF APPROPRIATENESS

The Office of the Safety-Service Director shall issue a Certificate of Appropriateness to the application if the Design Review Board determines one of the following conditions exist:

- A. If the proposed new construction, reconstruction, alteration, or demolition is determined by the Design Review Board to have no adverse effect on the Design Review District, and does not violate the spirit and purpose of these regulations or any design review guidelines as approved by City Council from time to time; or
- B. An usual or compelling circumstance as defined by Section 1131.14 has been found to exist and a Certificate of Appropriateness may be issued without substantial

- detriment to the public welfare and without substantial derogation from the intent and purpose of this Chapter; or
- C. Failure to issue the Certificate of Appropriateness will result in a substantial economic hardship to the applicant as defined in Section 1131.13, and a Certificate of Appropriateness may be issued without substantial detriment to the public welfare and without substantial derogation from the intent and purpose of this Chapter.

1131.12 DENIAL OF A CERTIFICATE OF APPROPRIATENESS

- A. If the Design Review Board determines that the proposed new construction, reconstruction, alteration, or demolition will have an adverse effect on the Design Review District, and does violate the spirit and purposes of these regulations or any design review guidelines as approved by City Council from time to time, then the Board may deny issuance of the Certificate of Appropriateness. Within fifteen (15) days after the Design Review Board's decision, the Office of the Safety-Service Director shall notify the applicant in writing of the reasons for the denial.
- B. Within fifteen (15) days after receipt of the denial, the application may apply for a rehearing, apply for mediation, or appeal the decision to Council in accordance with the provisions of this Chapter.
1. Rehearing: a rehearing on the application shall only be held to consider any unusual and compelling circumstances, as outlined in Section 1131.14, and/or substantial economic hardship, as outlined in Section 1131.13, that were not addressed in the original application or Design Review Board meeting. Within forty-five (45) days of the Office of the Safety-Service Director's receipt of the applicants request for a rehearing, the Design Review Board shall hold a public hearing at which to reconsider the applicant's evidence in response to the Board's previous denial.
 - a. New proposals or changes to the application shall not be subject to rehearing, but shall be presented in the form of a new application.
 2. Mediation: mediation may occur by mutual agreement between an applicant and the Design Review Board in an attempt to find a mutual resolution to the applicant's denial. Within fifteen (15) days after receipt of a request for mediation, a mediator shall be appointed by the joint agreement of the applicant and the Design Review Board. Costs for the mediator, if any, shall be divided equally and paid by the applicant and the City. Mediation towards resolution may occur during the next forty-five (45) days after selection of the mediator. As part of the mediation, the applicant and the Design Review Board shall attempt in good faith to develop an alternative plan for approval that is appropriate under the applicable standards and criteria set forth in this Chapter. New information may be considered and application revisions can be made by the applicant. If the matter is mutually resolved in the mediation to the satisfaction of both parties, a Certificate of Appropriateness shall be

issued by the Office of the Safety-Service Director. If the matter is not successfully resolved, then the applicant may request a rehearing under Section 1131.12 B(1) or may appeal to Council.

3. Appeal: all appeals of the Design Review Board's denial of an application for a Certificate of Appropriateness for an alteration shall state with particularity the grounds for an appeal. Grounds shall include the following:
 - a. The Design Review Board's denial of the application for a Certificate of Appropriateness was arbitrary, capricious, and unreasonable; or
 - b. The Design Review Board improperly denied the application for a Certificate of Appropriateness on the basis of the applicant's claim of unusual and compelling circumstances; or
 - c. The Design Review Board improperly denied the application for a Certificate of Appropriateness on the basis of the applicant's claim of substantial economic hardship.

1131.13 CRITERIA TO DETERMINE SUBSTANTIAL ECONOMIC HARDSHIP

The following criteria shall be used by the Design Review Board to determine whether the denial of a Certificate of Appropriateness creates a substantial economic hardship on the property owner:

- A. Denial of a Certificate of Appropriateness will result in a substantial reduction in the economic value of the property; or
- B. Denial of a Certificate of Appropriateness will result in substantial economic burden on the property owner because the property owner cannot reasonably maintain the property in its current form; or
- C. No reasonable alternative exists consistent with the design standards and guidelines for the property; or
- D. The property owner has been unable to sell the property.

1131.14 CRITERIA TO DETERMINE UNUSUAL AND COMPELLING CIRCUMSTANCES

The following criteria shall be used by the Design Review Board to determine whether the issuance of a Certificate of Appropriateness is justified by the existence of unusual and compelling circumstances:

- A. The property has little or no historical or architectural significance; or

- B. The property cannot be reasonably maintained in a manner consistent with the pertinent design standards and guidelines; or
- C. No reasonable means of saving the property from deterioration, demolition, or collapse other than the applicant's proposal exists; or
- D. If the property owner is a non-profit organization and it is determined by the Design Review Board that it is financially or physically infeasible for the non-profit organization to be able to achieve its charitable purposes while conforming to the pertinent design standards and guidelines.

1131.15 DEMOLITION

- A. No building, structure, site, or object or part thereof shall be demolished within the Design Review District unless a Certificate of Appropriateness has been issued from the Office of the Safety-Service Director.
- B. The application for demolition should be accompanied by a written statement containing the reasons the applicant is seeking to demolish the building, site, structure, or object, along with information detailing why such building, site, structure, or object or part thereof is not historically or architecturally significant or worthy of preservation.
- C. If the applicant is seeking to demolish an entire building, structure or major portion thereof, the application shall also submit definite plans for reuse of the site, evidence of commitment of funding for the proposal, a project timetable for both initiation and completion, and an evaluation of how the integrity and character of the Design Review District will be affected by such demolition.
- D. A Certificate of Appropriateness may be issued by the Office of the Safety-Service Director if the Design Review Board finds the applicant has submitted adequate documentation that at least one of the following conditions exist:
 - 1. The building, structure, site, or object or part thereof is noncontributing, and/or contains no features of architectural and historic significance to the character of the Design Review District; or
 - 2. There exists no reasonable economic use for the building, structure, site, or object or part thereof as it exists or as it might be restored, and that there exists no feasible and practical alternative to demolition; or
 - 3. Deterioration has progressed to the point where it is not economically feasible to restore the building, structure, site or object or part thereof.
- E. The Design Review Board shall be guided in its decision by balancing the historic, architectural, and cultural value of the building, structure, site or object or part thereof

against the applicant's proof of any substantial economic hardship or unusual or compelling circumstances in retaining the building, structure, site or object or part thereof along with a full review and consideration of the proposed replacement project.

1131.16 MINIMUM MAINTENANCE REQUIREMENTS

The owner of a historic structure or any structure within the Design Review District shall provide sufficient maintenance and upkeep for such structure to ensure its perpetuation and to prevent its destruction by deterioration, whether the building is vacant or inhabited.

1131.17 PENALTIES

- A. Whoever constructs, reconstructs, or alters any exterior feature of any structure, work of art, object, or area or whoever maintains, changes, or installs a sign or any other action in violation of this Chapter shall be deemed in violation of the Zoning Code. Such violation shall be punishable under Section 1117.07 of the Zoning Code. Each day of violation shall constitute a separate and distinct violation for as long as one (1) year.
- B. Whoever demolishes a structure in violation of this Ordinance shall be deemed in violation of the Zoning Code. Such violation shall constitute a misdemeanor of the first degree.

1131.18 SEVERABILITY

If any provision of this Chapter or the application thereof is held invalid, such invalidity shall not affect other provisions or applications of this Chapter, which can be given effect without the invalid provision or application, and to this end, the provisions of this Chapter are hereby declared severable.

1131.19 EXCLUSIONS

The following shall be excluded from this Chapter:

- A. Solely residential properties;
- B. Normal and ordinary maintenance functions performed on buildings within the Design Review District;
- C. The removal/demolition of declared public nuisances (e.g. fire-damaged buildings) that pose a threat to the health and safety of the general public;
- D. Temporary signage, provided it complies with all requirements of Section 1109.07 of the Zoning Code of the City of Orrville, Ohio.

(Ord. E-09, Passed 3-16-09)