

Sec. 126-109. - General Business Zone, B-3.

The purpose of this zone is to provide an area for high intensity commercial activity of a wholesale nature and to ensure easy highway access for such uses.

(1) *Principal permitted uses.*

- a. Any use permitted in the B-2 Zone;
- b. Wholesale establishments;
- c. Automotive equipment sales and repair;
- d. Laundry and dry-cleaning establishments;
- e. Seasonal fireworks tents;
- f. Medical cannabis dispensaries;
- g. Light industrial operations (as approved by the Planning Commission according to degree of objectionable smoke, noise, odor, glare, vibration and heavy freight traffic generation).

(2) *Minimum yard requirements.* None.

(3) *Minimum area requirements.* None.

(4) *Maximum building height.* None.

(Code 1968, app. A, § 57; Code 1996, § 156.073; Code 1997, § 126-109; Ord. No. 76-10-1339, 10-26-1976; Ord. No. 2021-08-8697, § 1, 8-10-2021; Ord. No. 2024-08-8821, § A, 8-27-2024)

Sec. 126-115. - Historical Zones, H-1 and H-2.

- (a) *Use provisions for the Historic Commercial Zone, H-1.* The purpose of the H-1 Zone is to encourage the development, redevelopment and the preservation of the City's historic commercial area.

(1) *Principal permitted uses.*

- a. Any use permitted in a B-2-T Zone;
- b. Any other use which the Historical and Architectural Review Commission (hereinafter called HARC) finds, based upon evidence at a public hearing, would not impair the historical integrity of the H-1 Zone.

(2) *Minimum yard requirements.* None.

(3) *Minimum area requirements.* None.

(4) *Maximum building height.* None.

(5) *Parking requirements.* None.

(6)

Ground floor use. The ground floor of all structures in the H-1 Zone shall be a permitted use as defined in subsection (1) except that residential uses, hotel/motel rooms, short-term rental rooms or bed and breakfast rooms may be permitted on any floor above or below the ground floor. Residential uses, hotel/motel rooms, short-term rental rooms or bed and breakfast rooms may also be permitted in the rear one-third ($\frac{1}{3}$) of the ground floor.

- (b) *Use provisions for the Historic Neighborhood Zone, H-2.* The purpose of the H-2 Zone is to encourage the development, redevelopment and preservation of the City's historic neighborhood area.

(1) *Principal permitted uses.*

- a. Any principal use permitted in the R-4 Zone except multi-family dwellings shall be conditional uses;
- b. Funeral homes;
- c. Beauty shops and barbershops;
- d. Assembly buildings of cultural, fraternal, professional and labor organizations;
- e. Restaurants;
- f. Retail establishments, provided they are conducted wholly within a building except for off-street loading and unloading and provided that product processing is not allowed on the premises;
- g. Tailor shop; and
- h. Any similar use which the HARC finds, based upon evidence at a public hearing, that would not impair the historical integrity of the H-2 Zone.

(2) *Conditionally permitted uses.*

- a. Lodging houses.
- b. Multi-family dwellings. Existing single-family and two-family dwellings more than fifty (50) years old shall not be subdivided into smaller dwellings units regardless of lot size.

(3) *Minimum yard requirements.*

- a. Residential dwellings:
 1. Front yard: Twenty-five (25) feet.
 2. Side yard: Six (6) feet.
 3. Rear yard: Twenty-five (25) feet.
- b. Non-residential structures: None.

(4) *Minimum area requirements.*

- a. Minimum lot area:
 1. Single-family dwellings: Four thousand (4,000) square feet.

2. Two-family dwellings: Four thousand (4,000) square feet per unit.
 3. Multi-family dwellings: Three thousand (3,000) square feet per unit.
 4. Non-residential structures: None.
- b. Minimum lot width: Forty (40) feet.
- (5) *Maximum building height.* Thirty-five (35) feet or no higher than two (2) feet taller than the tallest principal building on either side of proposed new construction.
 - (6) *Screening requirements.* Same as provided in section 126-83. For the purposes of screening between the H-2 Zone and adjoining zones, the H-2 Zone shall be treated as a residential zone.
 - (7) *Parking requirements.* Same as provided in section 126-71, provided that parking areas will be placed behind the rear line of the principal structure upon any lot unless the HARC shall find, upon evidence at a public hearing, that the waiver of this provision shall only minimally affect the historical integrity of this zone.
 - (8) *Waiver of lot requirements.* The requirements section 126-64(b) and (c) may be waived by the HARC, upon a finding based on evidence at a public hearing that such waiver will not impair the historical integrity of this zone.
- (c) *Standards for determining historical integrity.* The criteria to be applied in determining the existence of historical integrity as used in this section shall be:
- (1) That the proposed action is in harmony with the wording and intent of this section.
 - (2) That the proposed action will be complementary to all conforming structures within the zone.
 - (3) That the proposed action is in conformity with at least a majority of the applicable guidelines for exterior features promulgated by the Secretary of the Interior of the United States in the publication "Standards of Rehabilitation" (January 1990 Revision: GPO 230 394), as amended from time to time, and as set forth in any subsequent edition of this publication.
 - (4) The proposed action is not addressed in the Standards of Rehabilitation.
 - (5) That those portions of the affected real estate which are ordinarily visible from any public roadway within the zone are characteristic in appearance to architectural styles, materials and color shown by the evidence to have been prevalent in Paducah prior to 1940 or at the date of original construction of the structure, whichever date is earlier.
 - (6) The proposed new construction complies with the HARC Advisory Design Guidelines and a majority of the Secretary Standards of Rehabilitation.
- (d) *Historical and Architectural Review Commission (HARC) established.* There is hereby established a special Board of Adjustment pursuant to KRS 100.217 and 82.026, which shall be known as the Historical and Architectural Review Commission (HARC), which shall have sole and exclusive

jurisdiction as a Board of Adjustment over the historical zones, landmarks and landmark sites within the City.

(e) *Membership of HARC.*

- (1) The HARC shall consist of five (5) members, each to be appointed by the Mayor and approved by the City Commission.
- (2) The term of office of the members shall be three (3) years, except the terms of two (2) members of the original Commission shall expire within one (1) year. An appointment to fill a casual vacancy shall be for the unexpired portion of the term only.
- (3) Vacancies shall be filled within sixty (60) days.
- (4) The HARC shall be a highly specialized administrative body. Where practicable, its membership shall include at least two (2) preservation-related professional members from the fields of architecture, history, archeology, architectural history, planning or related fields; and all members shall have an interest in historic preservation and a background of historical study.
- (5) When one (1) or two (2) professional members are not available for appointment, the Mayor may appoint other persons interested in historic preservation to serve.
- (6) When the HARC reviews an issue that is normally evaluated by a professional member and that field is not represented by HARC, the HARC shall seek expert advice before rendering its decision.
- (7) Each member shall complete education credits in compliance with KRS 147A.027. All training must pertain to the work of HARC.
- (8) No member of the HARC shall vote on any matter that may affect the property, income or business interests of that member.

(f) *Powers and duties of HARC.*

(1) *General powers and duties.*

- a. The HARC shall have all powers and duties applicable to a Board of Adjustment as provided in this section and by State law, limited, however, to the landmarks, landmark sites and the boundaries of the historical zones within the City.
- b. The HARC is authorized and empowered to act as a fact-finding body and to thereby implement the provisions of this section which require factual determinations.
- c. The HARC is authorized and empowered to grant waivers or variances from the provisions of this section in those instances where such waivers or variances are specifically authorized by the provisions hereof.
- d. The HARC is authorized and empowered to grant Certificates of Appropriateness.
- e.

The HARC is authorized to coordinate and advise with other Federal, State and local administrative boards and private foundations within its area of interest and to make such studies as it may deem appropriate; provided, however, that in this capacity the subpoena power reposing in it shall not be utilized.

- f. The HARC shall keep such minutes and records as are required of a Board of Adjustment, and it shall make available for public inspection its written minutes and a written annual report of its activities, cases, decisions, special projects and qualifications of the members. The minutes shall include the reasons for the decisions made by the HARC.
- g. The HARC shall adopt such rules and regulations as it may deem necessary to carry out its functions under the provisions of this section. Such rules and regulations shall include rules of procedure, which shall be made public.
- h. The HARC shall hold at least four (4) meetings per year, held at regular intervals, in a public place advertised in advance and open to the public. All meetings shall have an agenda that is available before the meeting. The decisions of the HARC shall be made in a public forum with applicants notified of the meeting and the decision.
- i. The HARC shall conduct a continuing survey of historic buildings and areas and shall prepare a plan for their preservation. The HARC shall conduct this work in accordance with the guidelines of the State Historic Preservation Office. The HARC shall use the preservation plan to assist the City in its overall planning efforts.
- j. The HARC shall make recommendations for the designation of local historic districts, landmarks and landmark sites.
- k. The HARC may adopt additional guidelines for the protection of historic districts, landmarks and landmark sites.
- l. The HARC shall participate in handling the National Register nominations which are delegated to the City under the Certified Local Government Program. In the development of the Certified Local Government Program, the City may ask the HARC to handle other responsibilities that may be delegated to the City under the National Historic Preservation Act.
- m. The HARC shall advise and assist property owners and other persons and groups concerned with historic preservation and shall undertake educational programs for the public on historic preservation.
- n. The HARC shall receive assistance in the performance of its responsibilities from a City staff member or a person designated by the City who shall have expertise in historic preservation or a closely related field. Other City staff members may be asked to assist the HARC by providing technical advice or helping in the administration of this section.

(2) *Designation of historic districts, landmarks and landmark sites.*

- a.

Consideration of the designation of a historic district or a landmark and landmark site may be originated by the HARC, or by the filing of an application for designation by a property owner, any resident of the City or any organization in the City. An application shall be filed with the HARC in such form and accompanied by such information as required by this section and the rules of the HARC. A person or organization proposing a designation shall give the HARC the names and addresses of the owners of the affected property and the owners of all adjoining property and property across the street as listed on the tax rolls of the City. The HARC shall promptly notify these owners by certified mail that the property is under consideration for designation and that a public hearing is being held on the proposed designation by the HARC. Written notice shall be considered sufficient when it is mailed to the person at the address listed on the tax rolls of the City.

- b. The HARC shall hold a public hearing on the proposed designation. The HARC shall give notice of the time, place and reason for holding a public hearing thereon by one (1) publication in a newspaper of general circulation in the City not earlier than twenty-one (21) days or later than seven (7) days before the public hearing.
- c. A historic district or landmark shall qualify for designation when it meets one (1) or more of the following criteria, which shall be discussed in a report by the HARC to the Planning Commission. The purpose of the designation of a landmark is to encourage the preservation, rehabilitation and use of these buildings. Each designation of a landmark shall include the designation of a landmark site, which shall consist of the land on which the landmark and related buildings and structures are located and the land that provides the grounds or the setting for the landmark. A historic district or landmark shall be designated because of:
 - 1. Its value as a reminder of the cultural or archeological 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 the 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 character as a geographically definable area possessing a significant concentration of sites, buildings, objects or structures united by architectural styles or a plan of physical development; or
 - 7. Its character as an established and geographically definable neighborhood, united by culture or past events.

- d. The public hearing of the HARC shall be held within sixty (60) days after the designation was proposed. The HARC shall then vote on whether the proposed designation should be recommended for approval or should be disapproved. After voting to recommend that an application for the establishment of an historic district or a landmark be approved, the HARC shall forward its recommendation with its reasons, in writing, to the Planning Commission.
- e. The Planning Commission and the City Commission shall follow the procedures for the amendment of this section when they vote to approve or disapprove the designation of an historic district or a landmark. The comprehensive plan and the zoning map shall be amended before a designation of an historic district or a landmark shall be approved and shall take effect. The Planning Commission and the City Commission shall act on a proposed designation within one hundred twenty (120) days after the HARC makes its recommendation. The City Commission shall not approve the recommendation to designate a landmark site without the approval of the landowner upon which the landmark is located.
- f. The HARC shall notify each owner of the decision relating to the property and shall arrange that the designation of a property as a landmark or as a part of an historic district be recorded in the land records of the County. The HARC shall also give notice of the decision to the government offices in the City and County, which shall retain them for future use.
- g. The amendment or rescission of any designation shall be accomplished through the same steps as were followed in the original designation.

(3) *Nominations to the National Register of Historic Places.*

- a. To participate in the Certified Local Government Program established by the National Historic Preservation Amendments Act of 1980, the City shall initiate all local nominations to the National Register of Historic Places and shall request the Mayor and the HARC to submit recommendations on each proposed nomination to the National Register. The Mayor and the HARC shall obtain comments from the public that shall be included in their National Register recommendations. Within sixty (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 State historic preservation office and the owner of the property of the two (2) recommendations regarding the eligibility of the property. If the Mayor and the HARC do not agree, both opinions shall be forwarded in the City's report. If both the Mayor and the HARC recommend that a property not be nominated, the State historic preservation office shall inform the property owner and the State Review Board, and the property will not be nominated unless an appeal is filed with the State Historic Preservation Officer.

- b. If either or both the Mayor and the HARC recommend 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, the HARC or the property owner may appeal the final decision by the State Historic Preservation Officer.

(g) *Certificate of Appropriateness required for changes in exterior appearance.*

- (1) *Generally.* No person shall, without first applying for and obtaining a special conditional use permit, to be known as a Certificate of Appropriateness, cause or permit any of the following changes in exterior appearances of real estate in which such person has a legal or equitable interest lying within an historical zone or on a landmark site:
 - a. Additive changes:
 1. Moving any principal or accessory building onto or within any lot in the zone or on the landmark site.
 2. Material change of the exterior appearance of any existing building by additional reconstruction, alteration or maintenance, including change in color, form or texture of materials.
 3. Construction of any new principal or accessory building, patio, courtyard, parking lot, swimming pool, basketball court, tennis court or other real estate appurtenance.
 - b. Change by removal:
 1. Demolition of any principal or accessory building.
 2. Moving any principal or accessory building from the historical zone or the landmark site.
 - c. The term "change in exterior appearance," as used in this subsection (g), shall apply to alterations or changes which are ordinarily visible from any public roadway within an historical zone or adjacent to a landmark site, excluding alleys.
 - d. The determination of ordinarily visible from the roadway is made by the Zoning Administrator. Appeals of the Zoning Administrator's decision can be made to HARC in accordance with KRS 100.261.

(h) *Application for Certificate of Appropriateness.*

- (1) Before the commencement of any work for which a Certificate of Appropriateness is required, an application to the HARC shall be made by the owner and filed in the Department of Planning office.

(2)

The application shall include, where applicable, a drawing of the proposed facade and full plans and specifications relating to appearance, color, texture (of materials) and architectural design of all portions of the proposed work which, upon completion, will be ordinarily visible from any public roadway within the zone or adjacent to the landmark site.

(i) *Public hearing on Certificate of Appropriateness.*

(1) *Action by HARC.* The HARC shall hold a public hearing on each application for a Certificate of Appropriateness submitted to it, after notice is given in the same manner as for a hearing before the Board of Adjustment. The HARC may:

- a. Approve the application;
- b. Disapprove the application;
- c. Disapprove the application as submitted but approve the same with such modifications as it may deem necessary to bring it into compliance with historical integrity; or
- d. Defer the decision for a period of no longer than one (1) month and one (1) week.

(2) *Time limit; findings of fact.*

- a. The HARC shall make a decision on each application within ninety (90) days after a completed application is filed, provided that the HARC may vote to extend its time for decision by an additional ninety (90) days when the application involves the proposed demolition of a building.
- b. The HARC shall make written findings of fact upon which its decision must rest.

(j) *Grounds for granting a Certificate of Appropriateness.*

(1) *Additive changes.* Certificates of appropriateness pertaining to the moving of buildings into or within an historical zone or a landmark site, materially changing appearance, new construction or changing walls or fences shall be granted upon application therefor if the HARC finds as fact either:

- a. That the proposed addition or improvements will not ordinarily be visible from any public roadway within the zone or adjacent to the landmark site; or
- b. That a majority of the standards for determining historical integrity have been met.

(2) *Changes by removal.* Certificates of appropriateness pertaining to moving buildings from an historical zone or landmark site, demolition of buildings or cutting trees shall be granted upon application therefor if the HARC finds as fact either that:

- a. The denial of the proposed action would deprive the landowner of the reasonable use of the landowner's land or a fair return of the landowner's investment therein; or
- b. Those portions of the thing sought to be removed which are ordinarily visible from any public roadway within the zone or adjacent to the landmark site do not and cannot, with reasonable restoration efforts, meet the standards of determining historical integrity set

forth in this section.

(3) *Routine alterations.* The following list of routine alterations can be issued a Certificate of Appropriateness by the Chairman of HARC without the necessity of a public hearing. The Zoning Administrator will make the determination if the alteration is routine and requires a public hearing. If the proposed change is not listed in this subsection, then the formal application process with a public hearing is required. If the Chairman of HARC elects not to sign the Certificate of Appropriateness for the routine alteration, then the application shall be forwarded to the Commission and go through the formal application process with a public hearing.

a. Additive changes.

1. New roof of the same style and material.
2. Structures other than buildings, signs or fences.

b. Changes by removal.

1. Removing a non-historic feature from a structure which makes the structure more characteristic of the time period in which it was built. Examples include but are not limited to siding, storm windows, or other non-original features. Replacement of these items requires a formal application with a public hearing.
2. Removal of non-historic fences.
3. Cutting or removal of trees that are more than one (1) foot in diameter measured at a height of one (1) foot; provided, however, that nothing contained in this section shall be construed to hinder or delay the removal of trees which create a danger or a hazard to life or property.

c. Repainting. In instances where repainting already painted surfaces, any change in color shall require a Certificate of Appropriateness. Requests to paint an unpainted surface requires the formal application process with a public hearing.

(k) *Maintenance and safety standards.*

(1) *Ordinary maintenance and repair permitted.* Nothing in this section shall be construed to prevent the ordinary maintenance or repair of any exterior of any building or structure within an historic zone or on a landmark site. The term "ordinary maintenance or repair," as used in this subsection, shall be deemed to mean any work for which a building permit is not required by law, where the purpose and effect of such work is to correct any deterioration or decay of or damage to a structure or any part thereof and to restore the items using the exact same style and material to its condition prior to the occurrence of such deterioration, decay or damage.

(2) *Maintenance required; correction of defects.*

- a. All buildings within an historic zone or on a landmark site shall be maintained to meet the requirements of the building code of the City.
- b. The HARC shall request a meeting with a property owner when the owner's building in a historic district or the owner's landmark is in poor repair, and the HARC shall discuss with the owner ways to improve the condition of the property. After this step, the HARC may request the Chief Building Official to take action to require correction of defects in any building designated under this section so that the building shall be preserved in accordance with the purposes of this section.

(3) *Enforcement of safety standards.* Nothing in this section shall be construed to prevent the Chief Building Official from enforcing all State statutes and provisions of this Code and any other ordinances of the City pertaining to the public safety.

(l) *Appeals.* Any person aggrieved by any action of the HARC may appeal the decision thereof to the Circuit Court in the manner prescribed for appeals from actions of Boards of Adjustment.

(Code 1968, app. A, § 62; Code 1996, § 156.079; Code 1997, § 126-115; Ord. No. 76-10-1339, 10-26-1976; Ord. No. 80-9-1980, 9-9-1980; Ord. No. 81-10-2159, 10-27-1981; Ord. No. 88-1-4013, 1-26-1988; Ord. No. 93-3-4916, 3-16-1993; Ord. No. 2001-9-6411, 9-19-2001; Ord. No. 2002-10-6587, 10-22-2002; Ord. No. 2002-10-6587, 10-22-2002; Ord. No. 2003-11-6721, 11-11-2003; Ord. No. 2007-11-7355, 11-13-2007; Ord. No. 2009-1-7506, 1-13-2009; Ord. No. 2011-8-7851, § 5, 8-23-2011; Ord. No. 2021-04-8684, § 1, 4-13-2021; Ord. No. 2021-08-8697, § 1, 8-10-2021; Ord. No. 2022-06-8741, § 1, 6-28-2022)