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**TO:** Kenton County Planning Commission Members

**FROM:** Emi Randall, AICP, RLA   
Director of Planning and Zoning

**RE:** Staff Recommendations for the Public Hearing

**DATE:** May 28, 2019

PDS submits the attached report and recommendation for your review prior to the scheduled June 6, 2019 public hearing. This information relates to the following agenda item:

**FILE:** PC1904-0006  
**APPLICANT:** City of Ludlow per Scott Smith, City Administrator  
**REQUEST:** Proposed text amendments to the Ludlow Zoning Ordinance to adopt all necessary components for creating a Historic Preservation Overlay (HP-O) Zone including; amendments to Article 7 (Definitions), Article 10 (Zones), and Article 14 (Sign Regulations), as well as creating an Article 20 (Urban Design Review Board).

Staff will be prepared to address your comments and/or questions regarding the project during the public hearing. If you need additional information or clarification prior to that time, don't hesitate to contact me.





**Text Amendment**

Case No: PC1904-0006  
Jurisdiction: Ludlow  
Applicant: City of Ludlow per Matt Smith, City Administrator  
Project Manager: Patrick Denbow, AICP, Senior Planner

**GENERAL CASE INFORMATION**

1. **Request:** Proposed text amendments to the Ludlow Zoning Ordinance to adopt all necessary components for creating a Historic Preservation Overlay (HP-O) Zone including; amendments to Article 7 (Definitions), Article 10 (Zones), and Article 14 (Sign Regulations), as well as creating an Article 20 (Urban Design Review Board).

**HISTORY & BACKGROUND**

1. A large portion of the City of Ludlow is located in the Central Ludlow Historic District, a National Register of Historic Places district. This district was listed on the Register in 1984. The listing states that the district is representative of the “second empire”, “Italianate”, and “queen anne” architectural styles. Its period of significance is 1850-1924. A district or property listed on the National Register of Historic Places is designated through a process handled by the U.S. Department of the Interior. National Register status does not place any special protection or regulation on a property unless federal funding is involved with a project or federal tax credits are being sought – in which case the project must follow special federal historic preservation standards.
2. In 2018, the City of Ludlow contracted with PDS for technical assistance in the creation of a historic preservation overlay district. This project involved public engagement, drafting design guidelines, and drafting new zoning ordinance language, all under the direction of a task force consisting of the already adopted Urban Design Review Board members.
3. The public engagement consisted of three public information meetings targeting the commercial property owners along Elm Street (meeting 1), the non-commercial property owners along Elm Street (meeting 2), and all property owners along Elm Street between the railroad and Adela Avenue north to the river (meeting 3), as well as public questionnaires made available to these same individuals. The Task Force reviewed all the comments received during the public engagement to develop their recommendations to the City.
4. PDS delivered to the City the following documents:
  - a. Ludlow Historic Design Guidelines as recommended by the Task Force
  - b. Map amendment application
  - c. A map of the recommended HP-O Zone as recommended by the Task Force
  - d. Address list of all the property owners within the recommended HP-O Zone
  - e. Address list of all the property owners within and adjacent to the HP-O Zone
  - f. Text Amendment application
  - g. Zoning ordinance language

5. There is an accompanying map amendment application for establishing an HP-O Zone (PC1904-0005).

## **ANALYSIS**

### **1. Petition Review:**

- a. The City of Ludlow is requesting to amend the zoning ordinance to adopt all of the necessary components for creating a Historic Preservation Overlay (HP-O) Zone. The following articles are proposed to be amended: Article 7 (Definitions, Article 10 (Zones), and Article 14 (Sign Regulations). The City is also proposing to add a new article, Article 20 (Urban Design Review Board).
  - i. Article 7 (Definitions)
    - a) Provide definitions for terms specific to and necessary for historic preservation.
  - ii. Article 10 (Zones)
    - a) Establishes the HP-O (Historic Preservation Overlay) Zone.
    - b) Provides a stated purpose.
    - c) Provides a section on applicability
    - d) Provides statements regarding permitted, conditional, and accessory uses being as allowed un the underlying zones.
    - e) Provides development controls in addition to other development controls within the underlying zones.
    - f) Provides a statement that if City Council creates a Historic Preservation Overlay zone, its action must include a declaration that the buildings, structures, or sites to be preserved are in fact of historical or architectural significance requiring protection against destruction and encroachment.
  - iii. Article 14 (Sign Regulations)
    - a) Providing a statement that signs allowed in a site within an HP-O Zone shall be the same as those allowed in the underlying zoning district provided they receive the required approvals and meet the Ludlow Historic Design Guidelines.
    - b) Re-numbering the remainder of the article to reflect the above addition.
  - iv. Proposed Article 20 (Urban Design Review Board)
    - a) Establishing a stated purpose for the Board.
    - b) Providing the establishment and make-up of the Board, including membership criteria.
    - c) Establishing terms of office and vacancy standards.
    - d) Establishing the organization of the Board, including election of officers and requirements for conducting meetings.
    - e) Provides duties and powers of the Board.
    - f) Establishes the process for requiring "Certificates of Appropriateness".
    - g) Establishes review and decision-making criteria and level of review for specific project types.
    - h) Establishes a Historic Preservation Officer.
    - i) Establishes the notification process for public hearings and actions by the Board.
    - j) Establishes a procedure and criteria for demolition requests and requests to move structures.
    - k) Provides provisions establishing features that are not subject to review.
    - l) Provides provisions for the expiration of Certificates of Appropriateness.
    - m) Establishes provisions for any work performed without proper approval.
    - n) Establishes a process for appealing Board decisions to City Council and the Circuit Court.
- b. There are also proposed design guidelines (Historic Ludlow Design Guidelines) which is a document intended to provide direction to the public, zoning officials, and the Urban Design Review Board on exterior projects. Certificates of Appropriateness are approved only after it is determined that the application meets the intentions of the design guidelines. This document provides expectations and suggestions on how to proceed with a multitude of exterior projects, whether that project requires review and approval or not. Design guidelines must be adopted by

City Council but are not part of the zoning regulations and do not require Planning Commission review/recommendation.

2. **Comprehensive Plan:** A full review of the Direction 2030: Your Voice. Your Choice. goals, objectives, recommendations, and tasks was conducted by staff. The full review is available in the issue file. The following is a summary of what staff finds to be the most relevant sections:
  - a. PDS staff finds that the submitted request is consistent with the following:
    - i. **Goals and Objectives**
      - a) Goal 2: Strive to create and maintain places with a diverse character to draw talent and enhance livability.
        - (1) Objective A: Encourage opportunities for stakeholders to create unique environments to foster a sense of ownership.
        - (2) Objective B: Foster a sense of place by including elements that contribute to community pride.
        - (3) Objective C: Promote mixed use neighborhoods to create a vibrant built environment.
        - (4) Objective D: Identify opportunities to create unique places that develop, draw and retain talent.
      - b) Goal 4: Celebrate the unique identity of communities within Kenton County.
        - (1) Objective A: Strengthen the vitality of the urban core through historic preservation, infill development on vacant and underutilized properties and building upon the strong sense of neighborhood and community.
    - ii. **Sub Areas (Urban) Element**
      - a) Recommendation 1: Redevelop strategic residential, commercial, and industrial areas that are currently underutilized and have the potential for a high return on investment.
        - (1) Task A: Locate grants and funding sources to assist in redevelopment.
        - (2) Task B: Use a variety of historic preservation strategies and incentives to preserve vulnerable buildings and maintain the character that draws people to urban areas.
      - b) Recommendation 3: Identify assets that contribute most to community identity.
        - (1) Task A: Collaborate with local jurisdictions and other entities that work on urban development to identify assets that contribute most to the community's identity and strategize how to capitalize and build upon these assets.
        - (2) Task B: Identify needed amenities in the urban core that will retain and attract new residents.
    - iii. **Economy Element**
      - a) Recommendation 5: Maintain the quality of older commercial areas by promoting redevelopment and revitalization as needed to maintain their vitality.
        - (1) Task A: Evaluate economic trends, socioeconomic factors, opportunities, and needs of businesses to proactively avoid decline in older commercial areas.
    - iii. **Housing Element**
      - a) Recommendation 2: Target neighborhoods in need of improvement for rehabilitation and redevelopment programs
        - (1) Task B: Explore public and non-profit sources for rehabilitation funding.
        - (2) Task C: Encourage jurisdictions to enforce zoning and property codes to help maintain property values and aid in finding programs that help in the upkeep of rental properties.
    - iv. **Community Facilities Element**
      - a) Recommendation 2: Recognize the significance of art and cultural assets and their role as economic drivers.
        - (1) Task A: Identify and map the location of all existing art, cultural, and historic assets and catalog the types of services and amenities they provide.
        - (2) Task B: Promote ways to increase awareness of existing cultural assets and look for ways to expand and enhance cultural opportunities within the county.

## **STATE STATUTE**

1. Kentucky Revised Statute (KRS) 100.203 (1) states the allowable content of zoning regulations which cities and counties may enact.

**STAFF RECOMMENDATION:** Favorable recommendation on proposed text amendments to the Ludlow Zoning Ordinance to adopt all necessary components for creating a Historic Preservation Overlay (HP-O) Zone including; amendments to Article 7 (Definitions), Article 10 (Zones), and Article 14 (Sign Regulations), as well as creating an Article 20 (Urban Design Review Board).

## **SUPPORTING INFORMATION/BASES FOR STAFF RECOMMENDATION**

1. The proposed text amendments are reasonable and appropriate. The city has recognized the communities unique historic character and wishes to preserve and protect it as a resource. Establishing specific zoning for historic preservation is an appropriate and common action of city governments in Kentucky and is allowed under the Kentucky Revised Statutes.
2. The proposed text amendments will not be detrimental to the public health, safety or welfare. The goal of historic preservation is to provide protections that will protect individual investment, promote economic development, encourage tourism, and assist in creating a livable community. The process will give a voice to the public through public meetings.
3. The requested text amendments are consistent with many of the goals, objectives and recommendations of *Direction 2030: Your Voice. Your Choice.* (the Kenton County Comprehensive Plan). Placing protections in the area will work to create unique environments to foster a sense of ownership, foster a sense of place and add to community pride, promote a vibrant built environment, and is an opportunity to create a unique place that will draw and retain people to Ludlow. The request will work to strengthen the vitality of the urban core through historic preservation and will build upon a strong sense of community.

## **ADDITIONAL INFORMATION**

1. If adopted, City Council will need to take separate action to adopt the Ludlow Historic Design Guidelines. This document is not part of the zoning ordinance and does not require Planning Commission recommendation.

**General Attachment Notice:**

For ease of viewing, only those portions of the Zoning Ordinance pertaining to the requests within the submitted application have been included within these attachments. The complete zoning code can be viewed online at: [www.pdskc.org](http://www.pdskc.org)

**ATTACHMENT A**

Proposed Text Amendments to Ludlow Zoning Ordinance  
Words to be **deleted** are [~~lined through~~] - Words to be **added** are underlined

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**ARTICLE VII**

**DEFINITIONS**

ALTERATION: Any construction, replacement, or change to the exterior of a building or structure when it is visible to the public. An Alteration shall include a proposed sign or changes to an existing sign. Painting and routine maintenance and repairs shall not be considered alterations.

BOARD: The Ludlow Urban Design Review Board as established in Article XX.

CERTIFICATE OF APPROPRIATENESS: The permit, issued by the Board, which gives its approval for work or demolition to be done in a locally designated historic district.

CERTIFIED LOCAL GOVERNMENT: A government meeting the requirements of the National Historic Preservation Act in the implementing regulations of the U. S. Department of Interior and the Kentucky Heritage Council.

CITY: The City of Ludlow, Kentucky.

COUNCIL: The Ludlow City Council.

DEMOLITION: Any act destroying in whole or in part or moving a building or structure deemed by the Board to be of historic significance.

DESIGNATED PROPERTY: A building or structure in a historic district. Designated Property shall include all lots within a historic district.

HISTORIC DISTRICT: An area of architectural, historical, or cultural significance

INVENTORY OF HISTORIC PROPERTIES AND SITES: A catalog of historical sites.

PRESERVATION PLAN: Guidelines and/or regulations For the rehabilitation of certain sites, structures and/or areas to incorporate them into a livable

ROUTINE MAINTENANCE AND REPAIRS: Any work, the purpose of which is to correct deterioration or to prevent deterioration of a designated historic property. The work shall restore the property to its appearance prior to deterioration or shall result in the protection of its present appearance. The work shall involve the use of the same building materials or available materials that are as close as possible to the original. Work that changes the external appearance of the property shall be considered an alteration for purposes of this subchapter.

SECTION 106 REVIEW: The process set forth in National Historic Preservation Act of 1966, 16 U.S.C. 470, et. seq., as amended, and 36 C.F.R. Section 800, which requires federal agencies to consider the effects on historic properties of any project carried out by them or that receives federal financial assistance, permits, or approvals.

STATE HISTORIC PRESERVATION OFFICE OR SHPO: The Kentucky program approved by the U.S. Secretary of Interior for the purpose of carrying out the provisions

of the National Historic Preservation Act of 1966, 16 U.S.C. 470a, et. seq., and is also the Kentucky Heritage Cabinet established pursuant to KRS 171.381.

SURPLUS PROPERTIES: Properties owned by the City.

UNDERTAKING: As used in Section 106 Review a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including those carried out by or on behalf of a Federal agency; those carried out with Federal financial assistance; and those requiring a Federal permit, license or approval.

## **ARTICLE XVIII**

### **ESTABLISHMENT OF ZONES**

**SECTION 8.0 ZONES:** For the purpose of this ordinance, the city may be divided into the following zones:

HP-O            HISTORIC PRESERVATION OVERLAY ZONE

## **ARTICLE X**

### **ZONES**

#### **SECTION 10.14    HP-O (HISTORIC PRESERVATION OVERLAY) ZONE**

A.    PURPOSE: The HP-O, Historic Preservation Overlay zone is intended to preserve structures, buildings, appurtenances, and places that are of basic and vital importance for the development of the culture, because of their association with history; because of their unique architectural style and scale, including color, proportions, form, and architectural details; or because of their being a part of or related to a square, park or area of cultural, historical, or architectural importance to the city.

This zone is intended to work in conjunction with the other zones and for the purpose of protecting and preserving the exterior of the buildings, structures, appurtenances, and places.

B.    APPLICABILITY

1.    The regulations of this section apply to all development proposed within the boundaries of the HP-O zones, as shown on the official zoning map.
2.    Map amendment applications to add an HP-O zone to an area of the city must be filed with the Kenton County Planning Commission. The notification of and public hearing on an application must follow the procedures set forth in KRS 100 for map amendments.

3. Upon approval of an HP Overlay zone, the official zoning map must be amended by adding the suffix HP-O, in parentheses, to the existing zones, i.e., NC (HP-O), within the identified areas.
- C. PERMITTED USES: Any permitted uses allowed in the underlying zone and that do not destroy or alter the exterior architectural features of the building or structure in accordance with the purpose of this zone are permitted.
  - D. ACCESSORY USES: Any accessory uses allowed in the underlying zone and that do not destroy or alter the exterior architectural features of the building, structure, appurtenances, or place in accordance with the purpose of this zone are permitted.
  - E. CONDITIONAL USES: Any conditional uses allowed in the underlying zone and that do not destroy or alter the exterior architectural features of the building, structure, appurtenances, or place in accordance with the purpose of this zone are permitted.
  - F. OTHER DEVELOPMENT CONTROLS: In addition to the Other Development Controls contained within the underlying zone, the following shall also apply:
    1. No alteration of the exterior appearance of any building, structure, appurtenance, or site is permitted unless the work is determined to be consistent with the Ludlow Historic Design Guidelines.
    2. No new construction is permitted unless the work is determined to be consistent with the Ludlow Historic Design Guidelines.
    3. No demolition of buildings or structures is permitted unless it is reviewed and approved by the Urban Design Review Board as set forth in Section 20.3.
    4. Protective Maintenance Required:
      - a. All buildings and structures in designated Historic Preservation Overlay zones must be properly maintained and repaired at the same level required elsewhere in the city. Should an owner omit essential maintenance and repairs, which would eventually result in the building becoming so run down that it would be constitutionally unreasonable for the city to refuse to allow the owner to demolish the building, the Urban Design Review Board must bring this matter to the attention of the code enforcement official, who must immediately require of the owner or agent protective maintenance and repair to further the economy, health, safety, and general welfare of the city and nothing in this subchapter will be construed to prevent ordinary maintenance or repairs of any structures.
      - b. In any case where a responsible public official determines that there are emergency conditions dangerous to life, health, or property affecting an historic structure, that department may order these conditions remedied without the approval of the UDRB or staff. In all

such cases, these actions will be communicated to the UDRB at a public meeting.

**G. ACTIONS BY THE CITY COUNCIL**

1. If the City Council creates a Historic Preservation Overlay zone, its action must include a declaration that the buildings, structures, or sites to be preserved are in fact of historical or architectural significance requiring protection against destruction and encroachment.

**ARTICLE XIV**

**SIGN REGULATIONS**

**SECTION 14.11 SIGNS ALLOWED IN HISTORIC DISTRICTS**

- A. SIGNS ALLOWED: The signs allowed on a site in a Historic Preservation Overlay District shall be the same as those allowed in the underlying zoning district. All signs must receive a certificate of appropriateness through the Urban Design Review Board and must meet the Ludlow Historic Design Guidelines.

- SECTION 14.1[1]2 SIGNS ALLOWED IN INDUSTRIAL DISTRICTS**
- SECTION 14.1[2]3 MASTER SIGNAGE PLANS**
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**ARTICLE XX**

**URBAN DESIGN REVIEW BOARD**

**SECTION 20.0 URBAN DESIGN REVIEW BOARD ESTABLISHED**

**A. PURPOSE**

1. The Board and the procedures for which it is responsible for implementing are intended to protect, develop and promote the educational, cultural, travel, industrial, commercial, and other economic development and growth opportunities associated with the City's, neighborhoods, areas, squares, streetscapes, sites, places, structures having a special or distinctive character or a special historic, aesthetic architectural, archaeological, special, or cultural significance to the City. It is the unique character of the City's residential neighborhoods and commercial districts that imparts

distinctiveness to the City and which serve you as visible reminders of the history and cultural heritage of the City, the State, and the Nation. The protection of these resources is in the interest of the economic well-being, prosperity, health, safety and general welfare of the people.

2. The Board is established for the purpose of creating and maintaining an Inventory of Historic Properties and Sites, assisting with the Section 106 review process of the National Historic Preservation Act for undertakings occurring in the City, reviewing City-funded activities when the activity may affect historical properties identified in the Inventory and Preservation Plan, marketing any historic properties that the City may surplus in the future, stabilizing and improving property values in the City and encouraging new buildings and developments that will be harmonious with the existing historic buildings and districts but will not necessarily be of the same architectural style. Regulations in such areas are intended to protect against destruction of or encroachment upon such areas, structures, or sites, to encourage uses which will lead to their continuance, conservation, and improvement in a manner appropriate to the preservation of the cultural, social, economic, political, architectural, or archeological heritage of the city; to prevent creation of environmental influences and adverse conditions to such purposes; and to assure that new structures and uses in such areas will be in keeping with the character to be preserved and enhanced. The purpose is to develop the City not as a museum but as a vital living area in which each succeeding generation may build with the quality and sensitivity of past generations.

## B. ESTABLISHMENT AND MAKE-UP

1. The Board shall consist of five members, with the City Administrative Officer having a by-right position in the group to represent the City and provide staffing support. The five members of the board will be recommended by Mayor and approved by Council. The following criteria will be met to satisfy the minimum requirements for the board. More than one criteria may be fulfilled by the same appointed member.
2. The membership shall meet the following criteria:
  - a. One member shall represent the Ludlow Historic Society.
  - b. One member shall represent the Ludlow Heritage Museum, Inc.
  - c. Two members that have training, education or experience in preservation-related fields, that include architecture, landscape architecture, history, archaeology, architectural history, planning/zoning, building materials, real estate appraisal, economic/community development, or related fields. One of these two may not be a resident, so long as they have working knowledge

of the community and their expertise are not found amongst the citizenry willing to serve.

d. Two members will be representing the community at large. A Ludlow business owner, that is not a resident, may be appointed as one of the Members At-Large.

3. Members should be Ludlow residents, unless otherwise noted above, or in special circumstance.

4. The Board shall keep accurate attendance figures and report annually on the attendance of members. In the event that any member of the Board is absent for more than one-fourth of the regularly scheduled meetings per calendar year, the Mayor has the right to reconsider such Board member's appointment and to recommend to Council a replacement for such Board member for the reason of excessive absenteeism. Such replacement must be in accordance with the general appointive guidelines of this section.

5. Each Board member shall attend at least one informational or educational meeting biennially that has been approved by the State Historic Preservation Office (hereinafter "SHPO") or attend training that would aid in the performance of their duties and responsibilities. Training not previously approved by the SHPO shall be submitted to the City to be approved by the Mayor.

#### C. TERMS OF OFFICE

1. A. The members of the Board shall serve a term of four years and shall serve without pay but may be reimbursed by the City for necessary expenses incurred in connection with their duties subject to prior approval by the Mayor.

2. Vacancies on the Board shall be filled within 60 days, with the replacement completing the term of the previous member.

3. Three members of the Board will begin with four-year terms and two members of the Board will begin with a two-year term before beginning full four-year terms.

#### D. ORGANIZATION

1. The Board shall elect from its membership a Chairperson, a Vice Chairperson, and a Secretary who shall serve for terms of one year and who shall be eligible for reelection. The Chairperson shall preside over the Board meetings and shall have the right to vote. In the absence or disability of the Chairperson, the Vice Chairperson shall perform the duties of the Chairperson.

2. Meetings of the Board shall be conducted as follows:

3. Meetings of the Board shall be conducted as follows:
  - a. A simple majority of the membership of the Board shall constitute a quorum.
  - b. The Board shall adopt and make public a set of bylaws for the transaction of its business which shall provide for the time and place of regular meetings and for the calling of special meetings. Special meetings shall only be called by the Chairperson or by at least two members of the Board.
  - c. All meetings of the Board shall be open to the public and a public record must be kept of the Board's resolutions, proceedings and actions. All meeting shall have a previously available agenda and shall comply with the Kentucky Open Meetings Statute, KRS 61.805 to 61.850.
  - d. Board shall hold at least four meetings per year, scheduled at regular intervals in a public place.
  - e. Notice of all meetings of the Board shall be made as follows:
    - (1) Published pursuant to Kentucky Revised Statutes, Chapter 424, not less than seven nor more than twenty-one days prior to regular meetings or received no less than twenty-four hours prior to special meetings; and
    - (2) At least fifteen days prior written notice given by first class mail to the owners of property and owners of property immediately adjacent to property affected by matters under consideration by the Board.
4. The recommendations of the Board shall be considered "approved" upon a majority vote of the Board members present and voting, if a quorum is present. These recommendations shall be signed by the Chairperson and the Secretary.
5. The Board shall cause full minutes of its meetings to be kept, and upon approval by the Board, they shall be filed with the Secretary of the Board, who shall make them available for public inspection and shall file and maintain them in a manner similar to that provided for minutes of City Council meetings.
6. No member of the Board shall vote on any matter that may affect the property, income, or business interest of that member or their family members. Board members are not allowed to participate in discussions at Board meetings about any property in which they or a family member have an interest and they shall disqualify themselves prior to the beginning of a discussion about property in which they have an interest.

#### E. DUTIES AND POWERS

1. The Board shall conduct a continuing survey of historic and cultural resources according to SHPO guidelines for purposes of determining those

of a distinctive character or special historic, aesthetic, architectural, archeological, or cultural significance or value. The Board shall prepare and maintain an inventory of these resources within the City for use by public agencies and private owners. This inventory shall be referred to as the Inventory of Historic Properties and Sites. The inventory shall identify historic properties throughout the city and prioritize or rank these identified properties and sites based on eminent risk of loss and historical value. The format and content of and subsequent additions or changes to the Inventory of Historic Properties and Sites shall be approved by the Board and submitted to Council for approval.

2. The Board, after completion of the initial Inventory of Historic Properties and Sites, shall prepare and submit its recommendations for a preservation plan for historic sites and structures in the City to the appropriate planning agency of the City for its consideration, review, and alteration for proposed adoption by the City.
3. The Board shall assist the City in its consultation with the Kentucky SHPO for the Section 106 Review on all projects which are deemed federal undertaking. The Board's review and comments shall be included in all Section 106 submissions to the SHPO.
4. For purposes of Section 106 Review and where appropriate, the Board, in consultation with the City and the SHPO, may expand the definition for what will be considered "historic properties" at the local level from the federal definition outlined in 36 CFR §800.16 (l)(1) and (l)(2) to include other resources with local significance deemed worthy of preservation.
5. The Board shall review and comment on any plans for new construction prior to demolition of or alteration to identified historic properties (buildings, streetscapes, structure, or sites) to help ensure appropriateness and compatibility of design of new construction and consider alternatives for rehabilitation and adaptive reuse of existing historic properties. The Inventory and Preservation Plan established through Section 42.06(A) and (B) will inform this review. When the City is unable to implement recommendations made by the Board, the City will continue to consult with the Board in the development of alternatives.
6. The Board shall assist the City in surplus of city-owned historic properties to prospective owners interested in historic preservation prior to these properties being listed on the open market, auctioned, or demolished. The Board may, upon request by the City, propose plans to prospective owners for the rehabilitation and adaptive reuse of individual historic structures.
7. The Board shall assist in determining recommended areas for Historic Preservation Overlay zones.
8. The Board shall make decisions on requests for Certificates of Appropriateness. The Board shall use the Ludlow Design Guidelines or any applicable Chapter 99 Development Plan area guidelines in making decisions on these requests to alter, demolish, relocate, or add to a designated property, or to build a new structure in designated Historic Preservation Overlay zones or Chapter 99 Development Plan areas. The

guidelines may include the United States Secretary of the Interior's Standards for Rehabilitation.

9. The Board shall make decisions on requests for exterior alterations, demolitions, and new construction in Historic Preservation Overlay zones.
10. The Board may initiate plans for the rehabilitation of individual historic structures in the City.
11. The Chairperson of the Board shall have the power to administer an oath to witnesses prior to testifying before the Board on any issue.
12. In the development of the Certified Local Government Program, the City may ask the Board to perform other responsibilities that may be delegated to the City under the National Historic Preservation Act.
13. The Board shall administer the Main Street Facade Program.

## **SECTION 20.1 CERTIFICATES OF APPROPRIATENESS**

### **A. Applicability**

Within the boundaries of a Historic Preservation Overlay zone that calls for the application of design guidelines, the alteration of the exterior appearance or demolition of any existing structure, or construction of a new structure, or portions thereof, may not be undertaken until a Certificate of Appropriateness has been issued. However, a Certificate of Appropriateness is not required for:

1. Routine maintenance and repair
2. Any in-kind replacement
3. Painting
4. Any interior projects
5. Any projects in the rear of the house
6. Any project on an interior side that does not contain a prominent entrance or other significant architectural features.
7. Any accessory structure (garage, shed, fence, etc.)
8. Landscaping
9. In any case where a responsible public official determines that there are emergency conditions dangerous to life, health, or property affecting an historic structure, that department may order these conditions remedied without the approval of the UDRB or staff. In all such cases, these actions will be communicated to the UDRB at a public meeting.

### **B. Application**

- 1.. An application for a Certificate of Appropriateness must be filed by the owner of the subject property or the owner's authorized agent.
2. Applications must be filed with the Historic Preservation Officer, who must forward the application to the Urban Design Review Board, unless staff approval is authorized by Section 20.4, C.
3. There is no application fee for a Certificate of Appropriateness; however, a Certificate of Appropriateness must be obtained before any work is initiated.

4. Any person who performs work without a Certificate of Appropriateness may be required to have their application heard before the Urban Design Review Board and will be required to pay a \$50.00 application fee to cover administrative costs.
5. Contents
  - a. Prior to either the preparation of working drawings and specifications or calling for proposals or bids from contractors, any property owner may seek an informal meeting with the UDRB for technical assistance prior to formally submitting for a project. All informal meetings requested shall be held at a regularly scheduled meeting. The UDRB shall provide a written account of such technical assistance to the property owner for use in any subsequent application.
  - b. Every application for alterations or additions to existing structures or the erection of any new structure within the boundaries Historic Preservation Overlay zone must be accompanied by drawings of the proposed exterior alterations, additions, or changes. For new construction, all buildings and other site improvements must be indicated on the drawings. For demolition, all proposed changes to any remaining structures and any site improvements must be indicated on the drawings.
  - c. As used herein, "drawings" mean site plans, elevations, and/or perspectives drawn at a scale with sufficient detail to show the location of improvements on the site (if applicable) and the architectural design and exterior appearance of buildings and structures on the site. These drawings must include the following information (unless waived by the Historic Preservation Officer):
    - (1) Existing and proposed principal and accessory buildings, including location, dimensions, and height;
    - (2) Access points and off-street parking spaces;
    - (3) Driveways, sidewalks, walkways, terraces, and other paved surfaces;
    - (4) Accessory structures, including walls, fences, porches, lighting, signs, and other site improvements;
    - (5) Existing and proposed landscape areas and materials, if proposed to be altered;
    - (6) Proposed materials, textures, and colors, including samples of materials or color samples.
    - (7) All properties immediately adjacent to the site must also be included in the site plan; a site section and/or site elevations, including any adjacent properties, may be required for new construction.

d. An application for a Certificate of Appropriateness is not considered complete until all illustrative material necessary to adequately describe the proposed project has been submitted to the Historic Preservation Officer. The Urban Design Review Board may refuse to consider an application for a Certificate of Appropriateness if it judges that insufficient information has been provided by the applicant.

C. Review and Approval

1. Certificates of Appropriateness may be reviewed and approved by the Historic Preservation Officer or by the UDRB. Table 20-1 outlines which projects may be review and approved by staff versus review and approval by the UDRB:

Table 20-1

Type of Project	URDB Review/Approval	Administrative Review/Approval
Accessory Structures	N/A	N/A
Additions, front or corner side	x	
Additions, side or rear	N/A	N/A
Changes to any UDRB Approved Project, major	x	
Changes to any UDRB Approved Project, Minor		x
Demolitions / Relocations	x	
Doors, front or corner side	x	
Doors, side or rear	N/A	N/A
Driveway/parking areas, new	N/A	N/A
Driveway/parking areas, existing, material change	N/A	N/A
Exterior Wall, front or corner side, material and/or style change	x	

Exterior Wall, side or rear, material and/or style change	N/A	N/A
Gutter or downspout		x
Roof, pitched, material and/or style change	x	
Roof, flat, material and/or style change		x
Lighting, building		x
Masonry tuckpointing		x
Mechanical systems and accessories, all yards	N/A	N/A
Ornamental trim or Architectural details, changes/alterations, front and corner side	x	
Ornamental trim or Architectural details, changes/alterations, side and rear	N/A	N/A
Painting	N/A	N/A
Routine maintenance or repairs, matching materials and styles (except windows)	N/A	N/A
New Construction/Reconstruction	x	
Fences/retaining walls	N/A	N/A
Signage/Awnings, new or alteration to size, shape, or lighting	x	
Signage/Awnings, face changes	N/A	N/A
Shutters, front or corner side	x	

Shutters, side or rear	N/A	N/A
Windows, replacement, change in material/size/color	x	
Windows, replacement, same material/size/color		x
Windows, storm, new or alteration		x
Windows, storm, replacement	N/A	N/A

2. The Historic Preservation Officer is hereby authorized to issue Certificates of Appropriateness without review by the Urban Design Review Board, under the following circumstances:

- a. The application must be determined to be consistent with the Ludlow Historic Design Guidelines.
- b. The Historic Preservation Officer may not approve any application for any new construction or for the demolition of a principal or contributing structure.
- c. The Historic Preservation Officer may refer any project to the Urban Design Review Board upon which it may otherwise act, due to the complexity of the project or uncertainty as to its consistency with the Ludlow Historic Design Guidelines.
- d. The Historic Preservation Officer may not disapprove any project. Any application which is not approved by staff must be forwarded to the Urban Design Review Board in accordance with Section 20.2, D.
- e. Upon issuance of a Certificate of Appropriateness by the Historic Preservation Officer, all other provisions of this section must be followed, and the Historic Preservation Officer must notify the Urban Design Review Board of such action at its next regular meeting.

D. Public Hearing Notice for applications to the UDRB

When an application is made for a Certificate of Appropriateness for projects identified in Table 20-1 that required UDRB review and approval, or is forwarded by the Historic Preservation Officer, a public hearing must be held by the UDRB. Notice for a public hearing for designation of historic structures, areas, or sites must be made in accordance with Section 20.0, D., e., above.

E. Urban Design Review Board Hearing/Action

1. The Urban Design Review Board must hold regular meetings, at least once a month, and review applications that have been received by the staff 14

- business days or more prior to each meeting. The Urban Design Review Board must hold at least one public hearing on all applications for Certificates of Appropriateness that involve new construction, demolition of principal or contributing structures, or substantial alterations to a building. The applicant must be informed of the time and place at which the Urban Design Review Board will consider the application and the applicant will be heard.
2. Following the Urban Design Review Board's review and public hearing, if required, the Board must take action, by simple majority vote, on applications for Certificates of Appropriateness, based on the review and decision-making criteria of Section 20.2, F.
  3. In acting on an application for a Certificate of Appropriateness, the Urban Design Review Board is authorized to approve, approve with modifications, or disapprove the application.
  4. If the Urban Design Review Board approves an application, it must cite the appropriate section(s) of the Ludlow Historic Design Guidelines. A Certificate of Appropriateness must then be issued to the applicant and signed by the Historic Preservation Officer on behalf of the Chairperson or Vice-Chairperson. The Certificate of Appropriateness must be attached to the application, along with documents approved by the Urban Design Review Board, and must be transferred to the office of the Zoning Administrator and Building Inspector. All documents approved by the Urban Design Review Board must be stamped accordingly. The Zoning Administrator or Building Inspector must thereupon process the application in the usual manner.
  5. If the Urban Design Review Board disapproves an application, it must cite the appropriate section(s) of the Ludlow Historic Design Guidelines, for such disapproval and must transmit a record of such action and the reasons therefore in writing to the Zoning Administrator and Building Inspector and to the applicant. No further action may be taken by the Zoning Administrator or Building Inspector on the application. The applicant may modify the application to make it acceptable to the Urban Design Review Board and has the right to resubmit the application at any time.
  6. The Urban Design Review Board must act within 60 days of receipt of a complete application. The failure of the Urban Design Review Board to approve or disapprove such application within such time, unless otherwise mutually agreed by the applicant and the Urban Design Review Board, will be deemed to constitute disapproval and the issue will be considered to have been resolved. The applicant has the right to re-apply to the Urban Design Review Board again, if they so choose.
  7. After a Certificate of Appropriateness has been issued in accordance with this section, the project must, from time to time, be inspected in the field to review the construction, reconstruction, alteration, maintenance, or repair as authorized and such action as is necessary must be taken to assure compliance with the approved application.

8. Approval of a Certificate of Appropriateness does not exempt the applicant from complying with all of the requirements of this zoning ordinance, the Building Code, Housing Code, and other regulations of the City.

F. Review and Decision-Making Criteria

In acting on any application for a Certificate of Appropriateness, the Urban Design Review Board must follow the procedures and make findings regarding the applicable criteria as follows:

1. If the work involves the alteration of an existing structure or site, including demolition of additions, the staff or Urban Design Review Board must first determine whether the structure or site is contributing based on:
  - a. Its value as a reminder of the cultural or archeological heritage of the city, state, or nation;
  - b. Its location as a site of a significant local, state, or national event;
  - c. Its identification with a person or persons who significantly contributed to the development of the city, state, or nation;
  - d. 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;
  - e. Its value as a building that is recognized for the quality of its architecture and that retains sufficient elements showing architectural significance;
  - f. Its characteristic of an architectural style of a period; or
  - g. Its character as a contributing element in a Historic Preservation Overlay zone or in a Historic Designation Report.
  
2. If the structure or site is determined to be contributing, the Urban Design Review Board must state the basis for such determination and must make the following findings to approve the proposed work:
  - a. That the proposed work is consistent with the Ludlow Historic Design Guidelines, and the historic and architectural character of the building, structure, appurtenance, or site will be properly preserved;
  - b. That the proposed project will not have a detrimental impact on the historic or architectural character of the property; and
  - c. That the proposed project is compatible with other properties in the Historic Preservation Overlay zone in terms of form, proportion, mass, texture, configuration, building materials, color, the location of the building on the lot, and the land use.
  
3. If the structure or site is not determined to be significant or contributing, to approve the proposed work, the Urban Design Review Board must find Section 20.2, F., 2., above and it must further find that the proposed work will not increase the incompatibility of an existing structure.

4. If the Urban Design Review Board fails to make positive finding(s) as required above, a Certificate of Appropriateness may not be issued unless the Urban Design Review Board finds:
  - a. That the proposed alterations are necessary for the continued viability of the structure and the cost of making these improvements in such a manner as to meet the above finding(s) will result in the building being incapable of earning an economic return upon its value at that time, or upon future sale of the property in the case of an owner/occupant. The Urban Design Review Board may require cost estimates for an alternative that would comply with the design guidelines; or
  - b. The proposed project is required for the physical functioning of the building or health or safety reasons and no reasonable alternative is available to meet this need.
5. If the Urban Design Review Board finds that either of the latter two circumstances exists, every effort must be made to minimize the adverse impact of the proposed work and to allow for the work to be reversed in the future.
6. If the proposed work involves new construction (both infill and additions to existing structures), the Urban Design Review Board must make the following findings to approve the work:
  - a. That the proposed work is consistent with the Ludlow Historic Design Guidelines; and
  - b. That the proposed project is compatible with other buildings in the Historic Preservation Overlay zone in terms of form, proportion, mass, texture, configuration, building materials, color, and location of the building on the lot.
7. Requests for approval of demolition, in whole or in part, or relocation of a contributing structure must also follow the procedures established in Section 20.3.

## **SECTION 20.2 PROCEDURE AND CRITERIA FOR DEMOLITION AND MOVING OF STRUCTURES**

### **A. Applicability**

The demolition or moving of all or part of an existing building in a designated a Historic Preservation Overlay zone requires the approval of the Urban Design Review Board, in accordance with the following procedures:

1. The Urban Design Review Board must approve the Certificate of Appropriateness to demolish the structure if any one of the following circumstances is found to exist:

- a. Demolition has been ordered by a responsible public official for reasons of public health and safety. In the case of imminent danger, such demolition may occur prior to approval by the Urban Design Review Board; or
  - b. The demolition is requested for an inappropriate addition or a noncontributing building, and the Urban Design Review Board determines that the demolition will not adversely affect the character of the area, including the appearance of the streetscape in terms of the overall scale, rhythm, design, or unity; or
  - c. The proposed replacement structure and development will strengthen the viability of the area as a whole and will not adversely affect the character of the area, including the appearance of the streetscape in terms of the overall scale, rhythm, design, or unity; or
  - d. The demolition is consistent with plans or policies adopted by the Mayor and the City Council.; or
  - e. In approving the Certificate of Appropriateness to demolish the structure, the Urban Design Review Board must state the basis for approval, pursuant to one of the above findings.
2. If none of the circumstances listed in Section 20.3, A., 1., are found to exist, the Urban Design Review Board may approve the permit to demolish the structure only if it finds that the structure cannot be reused or cannot earn an economic return upon its value. If an owner requests a demolition permit for this reason, the Urban Design Review Board must hold a public hearing in accordance with Section 20.0, D., e., and the following procedures:
- a. Unless otherwise agreed by the applicant, the hearing must be held at the next regular meeting of the Urban Design Review Board. In every case, however, the hearing must be held within 45 days of the date of the original application.
  - b. At the hearing, the owner must present reasons why the structure cannot be reused or cannot earn an economic return upon its value. Any other persons may speak at this hearing and may present evidence to demonstrate reuse potential or opportunities for an economic return upon its value.
  - c. Within no more than 90 days of the date of the hearing, the Urban Design Review Board must identify a satisfactory plan for the preservation of the structure. If such a plan is presented, the demolition may not be approved. In the event the Urban Design Review Board does not identify an economically feasible plan, or otherwise concurs with the showing by the owner, the demolition must be approved. If, prior to the expiration of the 90-day period, the Urban Design Review Board identifies a preliminary plan for the preservation of the structure, the Urban Design Review Board must

be given an additional period of time not to exceed 90 days to recommend a final plan.

d. If the Urban Design Review Board has taken no action to approve or disapprove the request within the 90-day period (or 180-day period if extended), the demolition must be allowed and permits must be issued by the Zoning Administrator and the Building Inspector.

3. If the Urban Design Review Board approves a Certificate of Appropriateness for demolition as per this subsection, it may require the applicant to perform mitigating actions, such as archival documentation of the structure and/or salvage and re-use of historic elements.

4. As an alternative to demolition that has been approved pursuant to Section 20.3, A., 1., or Section 20.3, A., 2., the Urban Design Review Board may approve the moving of an existing building where:

a. The new surroundings would be harmonious with the historical and architectural character of the building; and

b. The relocation would help preserve and protect a building of historical interest.

**SECTION 20.3 FEATURES NOT SUBJECT TO REVIEW:** In reviewing an application for a Certificate of Appropriateness, the Urban Design Review Board may not consider interior arrangement or features that are not subject to any public view. The Urban Design Review Board may not impose any requirements except for the purpose of preventing development that is architecturally incompatible with the Historic Preservation Overlay zone or Chapter 99 Development Plan area.

**SECTION 20.4 EXPIRATION OF CERTIFICATE OF APPROPRIATENESS:** A Certificate of Appropriateness is valid for six calendar months from the date of issue. Work on the project must commence within that six-month time period, or the Certificate of Appropriateness will expire and be of no further effect. Once a Certificate of Appropriateness has expired, the applicant will be required to apply for a new Certificate of Appropriateness prior to initiating any work.

**SECTION 20.5 WORK PERFORMED WITHOUT A CERTIFICATE OF APPROPRIATENESS**

A. The City Administrator has the right to revoke the occupational license of any person performing work without a required Certificate of Appropriateness.

B. Any work completed without a Certificate of Appropriateness that cannot be approved by the Historic Preservation Officer must be reviewed by the Urban Design Review Board and the owner will be required to pay a \$100.00 application and review fee to cover administrative costs thereof.

C. Any violation of provisions within this article is subject to the provisions of Article 16.

## **SECTION 20.6 APPEALS OF URBAN DESIGN REVIEW BOARD DECISIONS**

### A. Applicability

A decision by the Urban Design Review Board to deny a Certificate of Appropriateness or an application for waiver or modification may be appealed to the City Council.

### B. Application

An application for an appeal from a decision by the Urban Design Review Board must be filed by the owner of the subject property or the property owner's authorized agent. Such appeal must be made in writing and must be filed with the Historic Preservation Officer within 30 days after the Urban Design Review Board takes final action on the application.

### C. City Council Action

1. The Mayor and the City Council will be notified of the appeal and it will be placed on the agenda for a regular or special meeting of the City Council.
2. In reviewing an appeal, the City Council must review the record of the Urban Design Review Board regarding the issue appealed and determine whether the procedures and criteria established in Section 20.1, Section 20.2, or Section 20.3 have been followed and/or whether the decision of Board was arbitrary, based on the record. If the City Council finds that an error has been made, it has the authority to order the issuance of a Certificate of Appropriateness or approve an application for design review, in accordance with the applicable procedures and criteria, or may remand the issue to the Urban Design Review Board for further consideration, stipulating certain facts.
3. If the City Council finds no cause of action, it must uphold the decision of the Urban Design Review Board.
4. It is the intent that the City Council will be lenient in its judgment of plans for new construction or for alteration, repair, or demolition of structures determined to be non-contributing, except where such construction, alteration, repair, or demolition would seriously impair the historic or architectural value of the surrounding structures or area. It is not the intent of this subsection to limit new construction, alteration, or repair to any single period of architectural style.

**SECTION 20.7 APPEAL TO CIRCUIT COURT:** A decision of the City Council may be appealed to the Kenton Circuit Court within 30 days after the final decision of the City

Council on the appeal from the Urban Design Review Board decision. The appeal to the Circuit Court must follow the procedures set forth in the Kentucky Revised Statutes if it is alleged that there is an error in any order, requirement, decision, or determination made by the City Council or Urban Design Review Board in carrying out their duties as set forth in this section. The computation of the 30-day timeframe must be in accordance with KRS 446.030.