

Article 13. Review and Decision-Making Bodies

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Section 13.01 Enforcing Officer

The Zoning Administrator is designated as the administrative official to administer zoning regulations. The administrative official will not have the power to permit any use or change of use that does not conform to the zoning regulations.

Section 13.02 Board of Adjustment

13.02.01 Establishment; Makeup

- A. The Board of Adjustment must consist of five members, all of whom must be citizen members and not more than 2 of whom may be citizen members of the Planning Commission.
- B. The Mayor will be the appointing authority of the Board of Adjustment, subject to the approval of the City Commission.
- C. The term of office for the Board of Adjustment is 4 years, but the term of office of members first appointed must be staggered so that a proportionate number serve one, 2, 3 , and 4 years, respectively.
- D. Vacancies on the Board of Adjustment must be filled within 60 calendar days by the appropriate appointing authority. If the authority fails to act within that time, the Planning Commission must fill the vacancy. When a vacancy occurs, other than through expiration of the term of office, it must be filled for the remainder of that term.
- E. All members of the Board of Adjustment must, before entering on their duties, qualify by taking the oath of office prescribed by Section 228 of the Constitution of the Commonwealth of Kentucky before any judge, notary public, clerk of court, or justice of the peace, in the zone or county in which they reside.
- F. Reimbursement for expenses or compensation or both may be authorized for members on the Board of Adjustment.
- G. Any member of the Board of Adjustment may be removed by the Mayor, subject to the approval by the City Commission, for inefficiency, neglect of duty, malfeasance, or conflict of interest.

The Mayor exercising the power to remove a member from the Board of Adjustment must submit a written statement to the Planning Commission setting forth the reasons and the statement must be read at the next meeting of the Board of Adjustment which must be open to the general public. The member so removed will have the right of appeal from the removal to the circuit court of the county in which he or she resides.

- H. The Board of Adjustment must elect annually a Chairperson, Vice Chairperson, and Secretary, and any other officers it deems necessary, and any officer will be eligible for reelection at the expiration of this term.

13.02.02 Meetings of the Board of Adjustment

- A. The Board of Adjustment must conduct meetings at the call of the Chairperson, who must give written or oral notice to all members of the Board of Adjustment at least seven days prior to the meeting, which notice must contain the date, time, and place for the meeting, and the subject or subjects which will be discussed.
- B. A simple majority of the total membership of the Board of Adjustment, as established by regulation or agreement, will constitute a quorum.
- C. Any member of the Board of Adjustment who has any direct or indirect financial interest in the outcome of any question before the body must disclose the nature of the interest and must disqualify himself or herself from voting on the question.
- D. The Board of Adjustment must adopt bylaws for the transaction of business and must keep minutes and records of all proceedings including regulations, transactions, findings, and determinations and the number of votes for and against each question, and if any member is absent or abstains from voting, indicating the fact, all of which must, immediately after adoption, be filed in the office of the Board of Adjustment. A transcript of the minutes of the Board of Adjustment must be provided if requested by a party, at the expense of the requesting party, and the transcript must constitute the record.
- E. The Board of Adjustment will have the right to receive, hold, and spend funds which it may legally receive from any and every source in and out of the Commonwealth of Kentucky, including the United States Government.

- F. The Board of Adjustment will have the power to issue subpoenas to compel witnesses to attend its meetings and give evidence bearing upon the questions before it.
- G. The Chairperson of the Board of Adjustment will have the power to administer an oath to witnesses prior to their testifying before the Board of Adjustment on any issue.
- H. The Board of Adjustment may appoint one or more of its members to act as hearing examiner to preside over a public hearing or public meeting and make recommendations to the Board of Adjustment based upon a transcript or record of the hearing.

13.02.03 Powers and Duties

The Board of Adjustment has the following powers and duties:

- A. To hear and decide on applications for zoning variances.
- B. To hear and decide appeals where is alleged, by the appellant, that there is an error in any order, requirement, decision, grant, or refusal made by a Zoning Administrator in the enforcement of this zoning ordinance.
- C. To hear and decide applications for conditional-use permits to allow the proper integration into the community of uses which are specifically named herein.
- D. To hear and decide, in accordance with the provisions of this zoning ordinance and the adopted comprehensive plan, requests for the change from one nonconforming use to another or the enlargement or extension of certain nonconforming uses, pursuant to KRS 100.253.

13.02.04 Decisions

- A. In exercising its powers and duties, the Board of Adjustment may, so long as such action is in conformity with the provisions of this zoning ordinance, reverse or affirm wholly or partly, or may modify the order, requirements, decision, or determination as made by the Zoning Administrator, from whom the appeal is taken.
- B. A majority of Board of Adjustment members present and voting will be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator, so long as such action

is in conformity with the provisions of this zoning ordinance; or to decide in favor of the applicant on any matter on which it is required to pass under this zoning ordinance; or to effect any variation in the application of this zoning ordinance.

- C. The details of the decision of the Board of Adjustment must be forwarded to the Zoning Administrator.

Section 13.03 Urban Design Review Board

13.03.01 Purpose

- A. The Urban Design Review Board and the procedures for which it is responsible for implementing are intended to promote the educational, cultural, travel, industry, and other economic resources and the general welfare of the city by preserving and protecting the old, historic, or architecturally worthy structures, sites, monuments, streetscapes, squares, and neighborhoods. It is the unique character of Covington's residential and commercial neighborhoods that imparts distinctiveness to the city and which serves as visible reminders of the history and cultural heritage of the city, the state, and the nation.
- B. The Urban Design Review Board is established for the purpose of 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.

13.03.02 Establishment; Makeup

- A. An Urban Design Review Board must consist of nine members who shall be appointed by the Board of Commissioners, and who

have demonstrated knowledge of or interest in the preservation of historic and architectural landmarks.

- B. The nine members must be selected from the following organizations or professions, and must be appointed by the Mayor and City Commission:
 - 1. One member from the American Institute of Architects, recommended by the Institute.
 - 2. One member from the Board of Realtors or Appraisers, recommended by either organization.
 - 3. One member from Covington Business Council, recommended by the organization.
 - 4. One member from the Main Strasse Village Association, recommended by the Association, or a member that lives in the Main Strasse area.
 - 5. Five members representing Historic Preservation Overlay zones or KRS Chapter 99 Development Plan areas where the Urban Design Review Board has review authority.
- C. All appointees must be residents of the city whenever possible.
- D. All members must have a demonstrated interest in historic preservation, and at least 2 members must have training or experience in a preservation-related profession, architecture, landscape architecture, history, archeology, architectural history, planning, or related fields. Appointments to the Urban Design Review Board must, whenever possible, be consistent with the above guidelines as to individual membership. Whenever possible, appointments should be made primarily from the above listed organizations; but when nominees are not available from such organizations, the City Commission reserves the right to nominate other interested individuals.
- E. The Urban Design Review Board must keep accurate attendance figures and report annually on the attendance of members. In the event that any member of the Urban Design Review Board is absent from more than one-third of the regularly scheduled meetings, the City Commission reserves the right to reconsider such Urban Design Review Board member's appointment and to replace such Urban Design Review Board member for the reason of excessive absenteeism. Such replacement must be consistent with the general appointive guidelines of this section.

13.03.03 Terms of Office

- A. The members of the Urban Design Review Board may serve without pay but may be reimbursed by the City for necessary expenses incurred in connection with their duties. The members must serve overlapping terms of four years or until they are reappointed or their successors are appointed. Initially 3 members must be appointed for a term of one year, 2 members for a term of 2 years, and 2 members for a term of 3 years, and 2 members for a term of four years. Members may be reappointed for consecutive terms. After the initial appointments, all appointments must be made for a term of four years.
- B. If a member representing a designated organization or profession will cease to be a member of that organization or profession, or if a vacancy will occur from some other cause, a new appointment must be made by the Mayor and City Commission for the unexpired term, using the procedures of appointment set forth above.
- C. Vacancies on the Urban Design Review Board must be filled within 60 days, with the replacement completing the term of the previous member.

13.03.04 Organization

- A. The Urban Design Review Board must elect from its membership a Chairperson and a Vice Chairperson who must serve for terms of one year and who must be eligible for reelection. The Chairperson must preside over the Urban Design Review Board and must have the right to vote. In the absence or disability of the Chairperson, the Vice Chairperson must perform the duties of the Chairperson.
- B. The Secretary of the Urban Design Review Board must be the Historic Preservation Officer. The Urban Design Review Board must receive assistance in the performance of its responsibilities from the Historic Preservation Officer whose assigned duties must include this work with the Urban Design Review Board and who must have expertise in historic preservation or a closely related field. Other city staff members must assist the Urban Design Review Board by providing technical advice or helping in the administration of these sections of the zoning ordinance.
- C. A majority of the members of the Urban Design Review Board must constitute a quorum. The Urban Design Review Board must

adopt and make public a set of bylaws for the transaction of its business which must provide for the time and place of regular meetings and for the calling of special meetings by the Chairperson or by at least 2 members of the Urban Design Review Board. All meetings of the Urban Design Review Board must be open to the public and a public record must be kept of the Urban Design Review Board's resolutions, proceedings, and actions. The Urban Design Review Board must hold at least four meetings per year, scheduled at regular intervals in a public place. The decisions of the Urban Design Review Board must be made in public with applicants notified of meetings and decisions.

- D. The Urban Design Review Board is empowered to issue a Certificate of Appropriateness upon a majority vote of Urban Design Review Board members present and voting. It may be signed by the Historic Preservation Officer on behalf of the Chairperson or Vice-Chairperson.
- E. The Urban Design Review Board must cause full minutes of its meetings to be kept, and upon approval by the Urban Design Review Board, they must be filed with the Secretary/Historic Preservation Officer, who must make them available for public inspection and must file and maintain them in a manner similar to that provided for minutes of meetings.
- F. No member of the Urban Design Review Board may vote on any matter that may affect the property, income, or business interests of that member. Urban Design Review Board members are not allowed to participate in discussions at Urban Design Review Board meetings (either as a sitting member or as an applicant) about any property in which they may have an interest and they must disqualify themselves prior to the beginning of a discussion about property in which they have an interest.

13.03.05 Duties and Powers

- A. The Urban Design Review Board must conduct a continuing survey of historical and cultural resources according to State Historic Preservation Office guidelines and must maintain an inventory of these resources in its jurisdiction for use by public agencies and private owners. The Urban Design Review Board must prepare a plan for the preservation of these resources for use in advising other officials and departments of local government.

- B. The Urban Design Review Board must make recommendations to the City Commission for the designation of Historic Landmarks and Historic Preservation Overlay zones.
- C. The Urban Design Review Board must make decisions on requests for Certificates of Appropriateness. The Urban Design Review Board must use the Covington 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 for Rehabilitation.
- D. The Urban Design Review Board must make decisions on requests for exterior alterations, demolitions, and new construction in Area Protection Overlay zones. The Urban Design Review Board must use the Review and Approval Criteria of Sections 12.14 and 12.15.
- E. The Urban Design Review Board must make decisions on requests for waivers or modifications of the infill development standards of this ordinance. The Urban Design Review Board must use the Review and Approval Criteria in accordance with Section 12.15.
- F. The Urban Design Review Board must advise and assist the federal and state governments and property owners and other persons and groups interested in historic preservation. The Urban Design Review Board must undertake educational programs that may include the preparation of publications, the holding of meetings on preservation issues and the placing of historical markers.
- G. The Urban Design Review Board may initiate plans for the rehabilitation of individual historic structures.
- H. Each Urban Design Review Board member must attend each year one informational or educational meeting that has been approved by the State Historic Preservation Officer.
- I. Nominations to the National Register of Historic Places
 - 1. To participate in the certified Local Government Program, the city government must initiate local nominations to the National Register of Historic Places, and must request the Mayor and the Urban Design Review Board to submit

- recommendations on each proposed nomination to the National Register.
2. The Mayor and the Urban Design Review Board must obtain comments from the public that will be included in their National Register recommendations.
 3. Within 60 days of the receipt of a nomination from a private individual or the initiation of a nomination by the city government, the city government must inform the State Historic Preservation Office and the owner of the property of the 2 recommendations regarding the eligibility of the property.
 - (a) If the Mayor and the Urban Design Review Board do not agree, both opinions must be forwarded in the city government's report.
 - (b) If both the Mayor and the Urban Design Review Board recommend that a property not be nominated, the State Historic Preservation Office must inform the owner and the State Historic Preservation Review Board, and the property will not be nominated unless an appeal is filed with the State Historic Preservation Officer.
 - (c) If either or both the Mayor and the Urban Design Review Board recommend that a property should be nominated, the nomination will receive a preliminary review by the State Historic Preservation Review Board.
 4. The State Historic Preservation Review Board must make a recommendation to the State Historic Preservation Officer, who decides whether to forward the nomination to the United States Secretary of the Interior, who must make the decision on listing the property on the National Register.
 5. The Mayor, the Urban Design Review Board, or the property owner may appeal the final decision by the State Historic Preservation Officer.
 6. In the development of the Certified Local Government Program, the city government may ask the Urban Design Review Board to perform other responsibilities that may be delegated to the city government under the National Historic Preservation Act.
- J. The Urban Design Review Board is responsible for review of applications for waivers or modifications of the infill development standards of this ordinance, in accordance with Section 12.15.

