

CHAPTER 34  
HISTORIC ZONING

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Chapter 34  
Historic Zoning  
(3415-04/19/2011)

14-3400. STATEMENT OF PURPOSE

In accordance with *Tennessee Code Annotated* Chapter 13, Part 4, a historic zoning ordinance is established for the City of Morristown to promote the health, safety, prosperity, education and general welfare of the people living in and visiting Morristown and Hamblen County.

More specifically, this historic zoning ordinance is designed to achieve the following goals:

- A. Protect, enhance, and perpetuate resources which represent distinctive and significant elements of the city's historical, cultural, social, economic, political, archaeological and architectural identity;
- B. Insure the harmonious, orderly and efficient growth and development of the city;
- C. Strengthen civic pride and cultural stability through neighborhood conservation;
- D. Stabilize the economy of the city through the continued use, preservation and revitalization of its historic resources;
- E. Promote the use of historic resources for the education, pleasure and welfare of the people of the City of Morristown;
- F. Provide a review process for the preservation and development of the city's historic resources.

14-3401. HISTORIC DISTRICTS, LANDMARKS AND LANDMARK SITES DEFINED

In order to achieve these goals, the historic district or landmark classification may be superimposed in addition to existing zoning classifications. A historic district shall be defined as a geographically definable area which possesses a significant individual structure or a concentration, linkage or continuity of sites, buildings, structures or objects which are united by past events or aesthetically by plan or physical development, and which meets one (1) or more of the following criteria:

- A. Associated with an event which has made a significant contribution to local, state or national history; or
- B. It includes structures associated with the lives of persons significant in local, state or national history; or
- C. It contains structures or groups of structures which embody the distinctive characteristics of a type, period or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- D. It has yielded or may be likely to yield archaeological information important in history or prehistory; or

- E. It is listed in the National Register of Historic Places.

A landmark or landmark site shall be defined as an individual structure or site that possesses one or more of the criteria associated with a historic district.

14-3402. CREATION OF HISTORIC ZONING COMMISSION: COMPOSITION AND TERMS

In accordance with *Tennessee Code Annotated* 13-7-401, the city is authorized to establish a Historic Zoning Commission (HZC) to preserve, promote and develop the city's historical resources and to advise the City on the designation of historic districts, landmarks and/or landmark sites and to perform such other functions as may be provided by law.

- A. The HZC shall consist of no less than five (5) and no more than nine (9) members, which shall consist of:
  - 1. A representative of a local patriotic or historical organization;
  - 2. An architect or engineer, if available;
  - 3. A person who is a member of the Morristown Regional Planning Commission at the time of his/her appointment; and
  - 4. The remainder shall be from the community in general, however all commission members shall have a demonstrated knowledge of or interest, competence or expertise in historic preservation, to the extent available in the community.
- B. Each member of the HZC shall be appointed by the Mayor, subject to confirmation by the City Council. The terms of members of the commission shall be five (5) years, except that the members appointed initially shall be appointed for staggered terms so that the terms of at least one (1) member, but not more than two (2) members, shall expire each year. All members shall serve without compensation. In the event that a vacancy shall occur during the term of any member, his/her successor shall be appointed for the unexpired portion of the term. No member shall serve more than two (2) consecutive terms, with no limit on total terms served.

14-3403. POWERS OF THE HISTORIC ZONING COMMISSION

- A. The Historic Zoning Commission (HZC) shall conduct or cause to be conducted a continuing study and survey of historic resources within the City of Morristown.
- B. The HZC shall recommend to the City the adoption of ordinances designating historic districts, landmarks and/or landmark sites.
- C. The HZC may recommend that the City recognize sub-districts within any historic district in order that the commission may adopt specific guidelines for the regulation of properties within such a sub-district.
- D. The HZC shall review applications proposing construction, alteration, demolition or relocation of any resource within the historic districts, landmarks and/or landmark sites.
- E. The HZC shall grant or deny Certificates of Appropriateness and may grant Certificates of Appropriateness contingent upon the acceptance by the applicant of specified conditions.

- F. The HZC does not have jurisdiction over interior arrangements of buildings and structures except where such change will affect the exterior of the buildings and structures.
- G. The HZC, subject to the requirements of the City, is authorized to apply for, receive, hold and spend funds from private and public sources in addition to appropriations made by the City for the purpose of carrying out the provisions of this ordinance.
- H. The HZC is authorized to employ such staff or contract with technical experts or other persons as may be required for the performance of its duties and to obtain the equipment, supplies and other materials necessary for its effective operation.
- I. The HZC is authorized, solely in the performance of its official duties and only at reasonable times, to enter upon private land or water for the examination or survey thereof. No member, employee, or agent of the HZC shall enter any private dwelling or structure without the express consent of the owner of record or the occupant thereof.

14-3404. RULES OF ORDER (BY-LAWS)

To fulfill the purposes of this ordinance and carry out the provisions contained therein:

- A. The Historic Zoning Commission (HZC) annually shall elect from its membership a Chair and Vice-Chair. It shall select a Secretary from its membership or its staff. If neither the Chair nor the Vice-Chair attends a particular meeting, the remaining members shall select an acting Chair from the members in attendance at such meeting.
- B. The HZC shall develop and adopt rules of order (by-laws) which shall govern the conduct of its business, subject to the approval of the city. Such rules of order (by-laws) shall be a matter of public record.
- C. The HZC shall develop Design Review Guidelines for determining appropriateness as generally set forth in Section 14-3407 of this ordinance. Such criteria shall insofar as possible be consistent with local, state and federal guidelines and regulations including, but not limited to, building safety, fire codes and the Secretary of the Interior's Standards for Rehabilitation.
- D. The HZC shall keep minutes and records of all meetings and proceedings including voting records, attendance, resolutions, findings, determinations and decisions. All such material shall be a matter of public record.
- E. The HZC shall establish its own regular meeting time; however, once established, regular meetings shall be scheduled at least once every three (3) months. The Chair or any two (2) members may call a special meeting to consider an urgent matter. All meetings are public meetings and shall be open to the public at all times. Public notice of meeting times and places shall be given a minimum of seven (7) days prior to any meeting.

14-3405. DESIGNATION OF HISTORIC DISTRICTS, LANDMARKS AND LANDMARK SITES

By ordinance, the City may establish historic districts, landmarks and/or landmark sites within the area of its jurisdiction. Such historic districts, landmarks, and/or landmark sites shall be designated following the criteria specified in Section 14-3401.

- A. The Historic Zoning Commission (HZC) shall initiate a continuing and thorough investigation of the archaeological, architectural, cultural and historic significance of the city's resources. The findings shall be collected in a cohesive format, made a matter of public record and made available for public inspection. The commission shall work toward providing complete documentation for previously designated historic districts which would include:
  - 1. A survey of all property within the boundary of the district, with photographs of each building.
  - 2. A survey which would be in a format consistent with the statewide inventory format of the Tennessee Historical Commission (SHPO).
- B. The HZC shall advise the City on the designation of historic districts, landmarks and/or landmark sites and submit, or cause to be prepared, ordinances to make such designation.
- C. Resource(s) may be nominated for designation upon motion of three members of the HZC, or by an organization interested in historic preservation, or by an owner of the property being nominated. A nomination shall contain information as specified by the HZC. The HZC must reach a decision on whether to recommend a proposed nomination to the city within six (6) months in the case of a historic district and two (2) months in the case of either a landmark or landmark site. After six (6) months for a district and two (2) months for a landmark or landmark site, if no action has been taken by the HZC, the nomination shall proceed to the Morristown Regional Planning Commission for their recommendation to the City Council.
- D. The HZC shall hold a public hearing on the proposed historic district, landmark or landmark site. If the HZC votes to recommend to the City the designation of a proposed resource, it shall promptly forward to the Morristown Regional Planning Commission its recommendation in writing.
- E. The HZC recommendations to the Morristown Regional Planning Commission for designation of a historic district shall be accompanied by:
  - 1. A map of the historic district that clearly delineates the boundaries;
  - 2. A written boundary description and justification;
  - 3. A written statement of significance for the proposed historic district.
- F. Upon recommendation by the Morristown regional Planning Commission, the City Council shall conduct a public hearing, after notice, to discuss the proposed designation and boundaries thereof. A notice of the hearing shall be published in a newspaper in the City of Morristown or Hamblen County.
- G. Once approved, the HZC shall notify, as soon as is reasonably possible, the appropriate state, county and municipal agencies of the official designation of all historic districts, landmarks and/or landmark sites. An updated list and map shall be provided to such agencies and be made available to the public.

14-3406. CERTIFICATES OF APPROPRIATENESS

No exterior feature of any resource shall be altered, added to, relocated or demolished until after the Historic Zoning Commission (HZC) has approved an application for a Certificate of Appropriateness of such work. Likewise, no construction which affects a resource shall be undertaken without a Certificate of Appropriateness. Therefore,

- A. The HZC shall serve as a review body with the power to approve and deny applications for Certificates of Appropriateness.
- B. In approving and denying applications for Certificates of Appropriateness, the HZC shall accomplish the purposes of this ordinance.
- C. A Certificate of Appropriateness shall not be required for work deemed by the HZC to be ordinary maintenance or repair of any resource.
- D. The decisions of the HZC shall be in writing and shall state the findings of the commission, its recommendations and the reasons therefore.
- E. Expiration of a Certificate of Appropriateness: A Certificate of Appropriateness shall expire twelve (12) months after its issuance. When a certificate has expired, an applicant may seek a new Certificate.
- F. Re-submittal of Applications: Twelve months after denial of an application for a Certificate of Appropriateness, the application may be re-submitted without change. A changed application may be re-submitted at any time.

14-3407. CRITERIA FOR ISSUANCE OF CERTIFICATES OF APPROPRIATENESS

The Historic Zoning Commission (HZC) shall use the *Secretary of the Interior's Standards for Rehabilitation* as the basis for Design Review Guidelines created for each historic district or landmark and the following general criteria in granting or denying each Certificate of Appropriateness:

- A. General Factors:
  - 1. Architectural design of existing building, structure or appurtenance and proposed alteration;
  - 2. Historical significance of the resource;
  - 3. Materials composing the resource;
  - 4. Size of the resource;
  - 5. The relationship of the above factors to, and their effect upon the immediate surrounding historic district and its architectural and historical character and integrity.
- B. New Construction:
  - 1. The following aspects of new construction shall be visually compatible with the buildings and environment with which the new construction is visually related, including but not limited to: height, gross volume, proportion between width and height of the façade(s), proportions and relationship between doors and windows, rhythm of solids to voids created by openings in the façade, materials, textures, patterns, trims and roof design.
  - 2. Existing rhythm created by existing building masses and spaces between them shall be preserved.
  - 3. The Landscape Plan, if applicable, shall be compatible with the resource, and it shall be visually compatible with the environment with which it is visually related. Landscaping shall also not prove detrimental to the fabric of a resource or adjacent public or private improvements such as sidewalks or walls.
  - 4. No specific architectural style shall be required.

- C. Exterior alteration:
  - 1. All exterior alterations to a buildings, structure, object, site or landscape feature shall be compatible with the resource itself and other resources with which it is related. The design, over time, of a building, structure, object or landscape feature shall be considered in applying these standards.
  - 2. Exterior alterations shall not adversely affect the architectural character or historic quality of a landmark and shall not destroy the significance of landmark sites.
  
- D. Demolition: In considering an application for the demolition of a landmark or a resource within a historic district, the following shall be considered:
  - 1. The individual architectural, cultural and/or historical significance of the resource;
  - 2. The importance or contribution of the resource to the architectural character of the district;
  - 3. The importance or contribution of the resource to neighboring property values; and
  - 4. The difficulty or impossibility of reproducing such a resource because of its texture, design, material or detail.
  - 5. Prior to receiving demolition or new construction permits, the applicant must receive approval for demolition from the HZC.
  - 6. Applicants that have received a recommendation for demolition from the HZC shall be required to receive a demolition permit as required by the City.

14-3408. PROCEDURES FOR ISSUANCE OF CERTIFICATES OF APPROPRIATENESS

No building permit shall be issued by the Chief Building Official which affects a designated resource without a Certificate of Appropriateness. In the event that a building permit need not be obtained for construction, alteration, demolition or relocation of any designated resource, a Certificate of Appropriateness is still required before such work can be undertaken. Such application shall be reviewed in accordance with the following procedure:

- A. When any such application is filed, the Chief Building Official shall immediately notify the HZC Chair, Vice-Chair or staff representative of the application being filed.
- B. The HZC Chair or Vice-Chair shall set the agenda for the regular meeting date, or set a time and date which shall be not later than thirty (30) days after the filing of the application for a hearing by the HZC.
- C. The applicant shall, upon request, have the right to a preliminary hearing by the HZC for the purpose of making any changes or adjustments which might be more consistent with the Design Review Guidelines.
- D. Not later than fifteen (15) days before the date set for the said hearing, the HZC or its staff representative shall mail notice thereof to the applicant at the address in the application and to all members of the HZC.
- E. Notice of the time and place of said hearing shall be given by publication in a newspaper having general circulation in the City of Morristown or Hamblen County.

- F. At such hearing, the applicant for a Certificate of Appropriateness shall have the right to present any relevant evidence in support of the application. Likewise, the governing body and the public shall have the right to present any additional evidence relevant to the application.
- G. Either at the meeting or within not more than fifteen (15) days after the hearing on an application, the HZC shall act upon it, either approving, approving with conditions, denying or deferring action until the next meeting of the HZC, giving consideration of the factors set forth in Section 14-3407 hereof. Evidence of approval of the application shall be by Certificate of Appropriateness issued by the HZC, and whatever its decision, notice in writing shall be given to the applicant and to the Chief Building Official.
- H. The issuance of a Certificate of Appropriateness shall not relieve an applicant for a building permit, special use permit, variance or other authorization from compliance with any other requirement or provision of the laws of the City concerning zoning, construction, repair or demolition.

14-3409. ECONOMIC HARDSHIP

No decision of the Historic Zoning Commission (HZC) shall cause undue economic hardship. If a Certificate of Appropriateness request has been denied, an applicant may request a hearing on economic hardship. At no time will an application for economic hardship be determined simultaneously with an application for a Certificate of Appropriateness.

*If a Certificate of Appropriateness has been denied to a property owner within a historic district or for a landmark or landmark site, the property owner has the right to present evidence to the HZC that such denial has deprived the owner of reasonable use or economic return of the property.*

A. Application for Certificate of Economic Hardship

Application for a Certificate of Economic Hardship shall be made on a form available from the HZC. The following information shall be submitted with an application for Certificate of Economic Hardship:

1. A statement detailing the condition(s) leading to economic hardship. The application should discuss the circumstances under which denial of a Certificate of Appropriateness has led or will lead to deprivation of reasonable use, or reasonable economic return of the property. The standards which the HZC shall go by to determine economic hardship include the following:
  - a. That by reason of the exceptional deterioration of the structures or by reason of the particular economics of the proposed project, the strict application of the Design Review Guidelines would result in peculiar and practical difficulties or undue economic hardship upon the owner.