

6.26 - HCZO - HISTORIC/CONSERVATION OVERLAY DISTRICT

6.26.1 INTENT:

The Historic/Conservation Overlay District provisions are established in order that appropriate measures may be taken to ensure preservation of structures of historic value to Johnson City pursuant to the authority contained in Section 13-7-401 of the Tennessee Code Annotated. The general intent includes, among others, the following specific purposes:

- A. To preserve and protect the historical and/or architectural value of buildings, other structures, or historically significant areas;
- B. To regulate exterior design, arrangement, texture, and materials proposed to be used within the historic district to ensure compatibility;
- C. To create an aesthetic appearance which complements the historic buildings or other structures;
- D. To stabilize and improve property values;
- E. To foster civic beauty;
- F. To strengthen the local economy; and
- G. To promote the use of Historic/Conservation Overlay Districts for the education, pleasure, and welfare of the present and future citizens of Johnson City.

6.26.2 CREATION OF HISTORIC/CONSERVATION OVERLAY DISTRICT:

The Historic District and/or Conservation District boundaries shall be shown on the zoning map or on special overlays thereto and are made a part of this ordinance and noted by name on said map. Any Historic District and/or Conservation District shall be created by the Johnson City Board of Commissioners upon the recommendations of the Johnson City Regional Planning Commission and the Historic Zoning Commission. Within an Historic District no structure shall be constructed, relocated, demolished, or altered unless the action complies with the requirements set forth in this Code. Within a Conservation District, no structure shall be constructed, relocated, demolished, or increased in habitable area unless the action complies with the requirements set forth in this Code.

6.26.3 DEFINITION OF HISTORIC/CONSERVATION OVERLAY DISTRICT:

A Historic/Conservation Overlay District shall be defined as a geographic area which possesses a significant 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:

- 6.26.3.1 Associated with an event which has made a significant contribution to local, state, or national history; or

- 6.26.3.2 Includes structures associated with the lives of persons significant in local, state, or national history; or
- 6.26.3.3 Contains structures or groups of structures which embody the distinctive characteristics of a type, period, or method of construction, or that represents the work of a master, or someone that possesses high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- 6.26.3.4 Yielded or may be likely to yield archaeological information important in history or prehistory; or
- 6.26.3.5 Is listed in the National Register of Historic Places.

6.26.4 CREATION OF A HISTORIC ZONING COMMISSION:

A Historic Zoning Commission is hereby created for the city of Johnson City, Tennessee, consisting of seven members who shall have been bona-fide residents of the city for not less than 3 years immediately prior to appointment and who shall continue to be so eligible as long as they serve.

- 6.26.4.1 Membership on the Historic Zoning Commission:
Membership on the Historic Zoning Commission shall be composed of at least the following members: a) one architect who is a member, or meets membership requirements, of the American Institute of Architects; b) one member of the Johnson City Regional Planning Commission; c) one member with knowledge of the history of Johnson City; and d) remaining members selected from the community at large.
- 6.26.4.2 Appointment to the Historic Zoning Commission:
Members of the Historic Zoning Commission shall be appointed by the Johnson City Board of Commissioners.
- 6.26.4.3 Terms of Appointment, Removal, and Vacancies:
The members of the Historic Zoning Commission shall serve 5-year terms. All members shall serve without compensation and may be removed from membership by the Board of Commissioners for just cause. Any vacancies on the Historic Zoning Commission shall be filled in the manner herein provided for the appointment of such member. Such appointment shall be for the duration of the expired term.

6.26.4.4 Election of Officers, Rules, and Meetings:
The Historic Zoning Commission shall elect from its members a Chairman and Vice-Chairman. The Commission shall adopt rules of procedure and shall keep records of application and action thereon, which shall be public record. Meetings of the Commission shall be held at the call of the Chairman and at such times as two or more members of the Commission may determine. All meetings shall be open to the public. At least three members of the Commission shall constitute a quorum for the transaction of its business. Actions and recommendations of the Commission shall be by majority vote. The Secretary of the Historic Zoning Commission, who shall be the Planning Director or designee, shall conduct all official correspondence, keep the minutes and records of the Commission, give adequate public notice of meetings, keep a file on each item which comes before the Commission, and attend to such other duties as are normally the function of a Secretary.

6.26.4.5 Conflict of Interest:
When any member of the Historic Zoning Commission shall have a conflict of interest in a matter before the Commission, it is expected that he or she declare that conflict of interest prior to considering whether to vote upon the matter.

6.26.5 POWERS AND DUTIES OF THE HISTORIC ZONING COMMISSION:

6.26.5.1 The Historic Zoning Commission shall review applications regarding the creation of Historic Districts and/or Conservation Districts. The review of such applications shall be in accordance with the criteria set forth in the Definition of Historic/Conservation Overlay District in this Article. The Commission shall furnish to the Planning Commission, in writing, its recommendations regarding the creation of any Historic District and/or Conservation District.

6.26.5.2 Prior to the establishment of a Historic District and/or Conservation District, and subsequent to Board of Commissioners adoption of the District, the Historic Zoning Commission shall adopt for each such proposed District a set of review guidelines, which it will apply in ruling upon the granting or denial of a certificate of appropriateness as provided for in this ordinance. Such review guidelines shall be consistent with the purposes of this ordinance and with regulations and standards adopted by the Secretary of the Interior pursuant to the National Historic Preservation Act of 1966, as amended, applicable to the construction, alteration, rehabilitation, relocation or demolition of any building, structure, or other improvement situated within a Historic District and/or Conservation District. Reasonable public notice and opportunity for public comment,

by public hearing or otherwise, shall be required before the adoption of any such review guidelines.

6.26.5.3 It shall further be the duty of the Historic Zoning Commission to make the following determinations with respect to the Historic District and/or Conservation District when applicable:

- A. Appropriateness of altering or demolishing any building or structure within the Historic District and/or Conservation District. The Commission may require interior and exterior photographs, architecturally measured drawings of the exterior, or other notations of architectural features to be used for historical documentation as a condition of any permission to demolish a building or structure, such photographs, drawings, etc. shall be at the expense of the Commission.
- B. Appropriateness of exterior architectural features, including signs and other exterior fixtures, of any new buildings and structures to be constructed within the Historic District and/or Conservation District.
- C. Appropriateness of front yards, side yards, rear yards, off-street parking spaces, location of entrance drives into the property, sidewalks along the public right-of-way, which might affect the character of any building or structure within the Historic District and/or Conservation District.
- D. Appropriateness of the general exterior design, arrangement, texture, material, of the building or other structure in question and the relation of such factors to similar features of buildings in the immediate surroundings and entire district. However, the Historic Zoning Commission shall not consider interior arrangement or design.
- E. That all work to be undertaken in the Historic District and/or Conservation District complies with the applicable review guidelines, with primary consideration to be given to:
 - 1) historical or architectural value of the present structure;
 - 2) the relationship of the exterior architectural features of such structure to the rest of the structures, to the surrounding area, and to the character of the District;
 - 3) the general compatibility of exterior design, arrangement, texture, and materials proposed to be used; and
 - 4) to any other factor, including aesthetic, which is reasonably related to the purpose of this Article.

6.26.5.4 Right of Entry Upon Land:

The Commission, its members and employees, in the performance of its work, may enter upon any land within its jurisdiction and make examinations and surveys and place or remove public notices as required by this Ordinance, but there shall be no right of entry into any building without the consent of the owner.

6.26.6 SUBMITTAL OF APPLICATION TO THE HISTORIC ZONING COMMISSION:

Prior to issuance of any building permit for the construction, alteration, repair, demolition, or relocation of a building or other structure within any *Historic District and/or Conservation District*, the applicant shall first receive a Certificate of Appropriateness from the Historic Zoning Commission. Application for such certificate shall be made by the applicant to the Secretary of the Historic Zoning Commission and shall include all plans, elevations, or other information as may be required to determine the appropriateness of the proposed actions.

6.26.7 MEETINGS ON APPLICATION:

The Historic Zoning Commission shall meet within fifteen (15) days after notification by the Secretary of the Historic Zoning Commission of the filing of an application relating to the Historic District and/or Conservation District.

6.26.8 APPROVAL BY THE HISTORIC ZONING COMMISSION:

Upon approval of any application, the Historic Zoning Commission shall forthwith transmit a report to the Chief Building Official stating the basis upon which such approval was made and cause a Certificate of Appropriateness to be issued. The provisions of the Certificate of Appropriateness, and any conditions attached thereto, shall become a part of the Building Permit upon issuance. Upon failure of the Historic Zoning Commission to take final action with thirty (30) days after receipt of the application, the case shall be deemed approved, except when mutual agreement has been made for an extension of the time limit. When a Certificate of Appropriateness has been issued, a copy thereof shall be transmitted to the Chief Building Official, who shall from time to time inspect the construction or alteration of the exterior approved by such certificate, and report to the Historic Zoning Commission any work not in accordance with such certificate before issuing a certificate of occupancy.

6.26.9 DISAPPROVAL BY THE HISTORIC ZONING COMMISSION:

In the case of disapproval of any application, the Historic Zoning Commission shall state the reasons therefore in a written statement to the applicant, in terms of design, arrangement, texture, color, material, and the like of the property involved. Notice of such disapproval and a copy of the written statement of reasons therefore shall also be transmitted to the Chief Building Official.

6.26.10 APPROVAL OF REMOVAL OR DEMOLITION:

In the event an application for removal or demolition of a building or other structure within a *Historic District and/or Conservation District* is submitted or such demolition is required, the governmental agency receiving such request or initiating such action shall transmit a copy thereof to the Historic Zoning Commission and said Commission shall have a period of thirty (30) days from the date the application was filed to act upon the application. Upon failure of the Historic Zoning Commission to take final action within thirty (30) days after the filing of the application, the case shall be deemed approved, except when mutual agreement has been made for an extension of the time limit.

6.26.11 DETERMINATION OF ECONOMIC HARDSHIP:

Any applicant denied a Certificate of Appropriateness by the Commission within thirty (30) days thereafter and any applicant seeking demolition of a landmark or contributing structure within a district may make application for a Certificate of Economic Hardship from the Commission.

6.26.11.1 The applicant shall submit all the following information by affidavit for an application to be considered:

- A. The assessed value of the property and/or the structure. In the case of a demolition, two (2) recent assessments;
- B. For the previous two (2) years, the real property taxes paid;
- C. The amount paid for the property by the owner, the date of purchase, the name of the party from whom it was purchased, and a description of the relationship, if any, between the current owner and the previous owner;
- D. The current balance of any mortgage or any other financing secured by the property owner and the annual debt service, if any, for the previous two (2) years;
- E. All appraisals obtained within the previous two (2) years by the owner or applicant in connection with purchase, offerings for sale, financing, or ownership of the property, or state that none were obtained;
- F. All listings of the property for sale or rent, price asked and offers received, if any, within the previous four (4) years, or state that none were obtained;
- G. All studies commissioned by the owners as to profitable renovation, rehabilitation, or utilization of any structures or objects on the property for alternative use, or a statement that none were obtained;

- H. For income producing property, itemized income and expense statements from the property for the previous two (2) years;
- I. Estimate of the cost of the proposed alteration, construction, demolition, or removal and an estimate of any additional cost that would be incurred to comply with the recommendations of the Commission for changes necessary for it to approve a Certificate of Appropriateness; and
- J. Form of ownership or operation of the property, whether sole proprietorship, for-profit, or not-for-profit corporation, limited partnership, joint venture, or other.

6.26.11.2 In the event that the information required to be submitted by the applicant is not reasonably available, the applicant shall file with the affidavit a statement of the information that cannot be obtained and shall describe the reasons why such information is unavailable.

6.26.11.3 Notwithstanding the submission of the above information, the Commission may require additional evidence.

6.26.11.4 The Commission shall hold a public hearing on the application within thirty (30) days following receipt of the completed application form.

6.26.11.5 The determination by the Commission shall be made within forty-five (45) days following the close of the public hearing and submission of all information, documentation, or evidence requested by the Commission. The determination shall be accompanied by findings of fact.

6.26.11.6 The Commission shall not grant approval of any application involving demolition, unless the Commission determines, upon clear and convincing evidence that one or more of the following circumstances applies:

A. The structure is not subject to this article; or

B. Denial of a demolition permit would result in a hardship to the property owner so great that it would effectively deprive the owner of all reasonable use of the structure. The extent of any demolition permitted shall be limited to the amount necessary to allow reasonable use of the structure. Where the condition of the structure is not the result of the acts of neglect of the owner or his predecessors in title occurring in whole or in part after August 1, 1988.

6.26.11.7 If the determination of the Commission is to disapprove the application for a Certificate of Economic Hardship, the applicant shall be notified within

five (5) business days. The notice shall include a copy of the findings of fact and report.

6.26.12 APPEALS FROM DECISION OF THE HISTORIC ZONING COMMISSION:
Appeals from any decision of the Historic Zoning Commission may be taken to a court of competent jurisdiction as provided for by law.

Nothing in this article shall be interpreted as giving the Historic Zoning Commission any authority to consider, review, examine, or control the use of property classified as a conservation zoning district. Use shall be controlled solely by the zoning of such property prior to its classification as a Historic District and/or Conservation District or as may be rezoned by subsequent amendments.