

CITY OF DANVILLE

ORDINANCE NO. 1479, 1993

AN ORDINANCE RELATING TO THE
 ESTABLISHMENT OF A BOARD OF ARCHITECTURAL
 REVIEW AND THE AUTHORIZATION FOR THE
 DESIGNATION AND PROTECTION OF HISTORIC
 DISTRICTS AND INDIVIDUAL LANDMARKS

WHEREAS, the City Commission of the City of Danville deems it is in the public interest to take further steps to protect the City's historic areas and historic buildings from demolition and inappropriate alterations and to encourage the rehabilitation of buildings and appropriate new construction on land within the historic areas of the City; and

WHEREAS, the City Commission wishes to help owners to continue to use their historic buildings;

NOW, THEREFORE, be it ordained by the City of Danville that:

Section 1. Intent and Declaration of Public Policy

- A. The City Commission finds that buildings within the City of Danville having historic, architectural or cultural value have been significantly altered or destroyed notwithstanding the feasibility and desirability of preserving these buildings or altering them in an appropriate way.
- B. The Commission finds that the historic and architectural character of Danville is of vital importance in maintaining the economy of the City.
- C. The Commission finds that Danville has played an important role in the development of Kentucky and that the history of the City is shown today through buildings representing the activities and events during its growth. The Commission finds that the City has buildings that represent the persons who live or have lived in Danville during a period of more than 100 years. It is the finding of the City Commission that the distinctive and significant character of the City can only be maintained by protecting and enhancing its historic, architectural and cultural heritage and by preventing unnecessary injury to its historic districts and its landmarks which are a civic and community asset.

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D. The Commission finds that the Federal and Kentucky Governments have passed laws to protect historic districts and landmarks and that the national Historic Preservation Act was amended in 1980 to establish a Certified Local Government program creating a new federal-state-local partnership to encourage the efforts by cities to protect and preserve their historic districts and landmarks.

E. The Commission finds that the adoption of an Ordinance to provide a historic preservation program will benefit all the residents of Danville and all the owners of property.

F. The City Commission declares as a matter of public policy that the preservation, protection and use of historic districts and landmarks are a public benefit because they have a special character and historic, architectural, and cultural value and thus serve as visible reminders of the history and heritage of this City, state and nation. The commission declares as a matter of public policy that this Ordinance is required in the interest of the health, prosperity, safety, welfare and economic well-being of the people.

G. The Commission finds that the Main Street program has contributed to the revival of the central business district in Danville, that it has increased the awareness of the value of the older buildings in the City and that the historic preservation program will strengthen the current revitalization work in the City,

H. The purpose of this Ordinance is to effect the goals as set forth in the above findings and declarations of public policy and specifically, but not exclusively, to:

- (1) Effect and accomplish the preservation, protection and use of the historic districts and individual landmarks which have a special character and historic, architectural and cultural value to the City, state and nation;
- (2) Promote the educational, cultural, economic and general welfare of the people and safeguard the City's history and heritage as embodied and reflected in its historic districts and landmarks;
- (3) Stabilize and improve property values in such districts and in the City as a whole;
- (4) Foster civic pride in the value of notable accomplishments of the past;
- (5) Strengthen the economy of the City;

(6) Protect and enhance the City's attractions to residents and visitors; and

(7) Enhance the visual and aesthetic character, diversity and interest of the City.

Section 2.

Definitions

For the purpose of this Ordinance, certain terms are defined as follows:

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 ordinary maintenance and repairs shall not be considered alterations.

Board. The Danville Board of Architectural Review.

Building. Any structure designed or constructed for residential, commercial, industrial, agricultural or other use.

Certificate of Appropriateness. The permit, issued by the Board of Architectural Review, which gives its approval for work or demolition to be done in a historic district or on a landmark.

Certified Local Government. A government meeting the requirements of the National Historic Preservation Act and the implementing of regulations of the U.S. Department of the Interior and the Kentucky Heritage Council.

Commission. The Danville Board of City Commissioners.

Demolition. Any act that destroys in whole or in part a landmark or a building or structure in a historic district.

Designated Property. A landmark or a building or structure in a historic district. Designated property shall include all lots within a historic district and the entire lot containing a landmark.

Historic District. An area of architectural, historical or cultural significance which meets one or more of the criteria contained in section 6 of this Ordinance and which has been designated by the City of Danville.

Landmark. A building or structure of architectural, historical or cultural significance which meets one or more of the criteria contained in section 6 of this Ordinance and which has been designated by the City of Danville.

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Major Structural Change. Structural alterations and structural repairs made within any twelve (12) month period costing in excess of fifty percent (50%) of the physical value of the structure, as determined by comparison of the extent/value of the alternations involved and the replacement value of the structure at the time the plans for the alteration are approved, using the Building Officials Conference of America (BOCA) chart for construction cost.

New Construction. An addition to an existing building or structure or the construction of a new building or structure.

Ordinary 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 a property shall be considered an alteration for purposes of this Ordinance.

Structure. Anything constructed or erected, the use of the ground, including (but without limiting the generality of the foregoing) barns, smokestacks, advertising signs, billboards, backstops for tennis courts, bridges, fences, pergolas, gazebos, radio and television antennae, solar collectors, microwave antennae, including the supporting towers, roads, ruins or remnants (including foundations), swimming pools or walkways.

Section 3.

Board of Architectural Review

A. Establishment

There is hereby established the Danville Board of Architectural Review. The Board shall consist of five members appointed by the Mayor and approved by the City Commission. The members shall have demonstrated interest in historic preservation, and at least two members shall have training or experience in a preservation-related profession: architecture, history, archaeology, architectural history, planning or related fields. When one or two professional members are not available, the Mayor may appoint other persons interested in historic preservation to serve. When the board reviews an issue that is normally evaluated by a professional member and that field is not represented on the Board, the Board shall seek expert advice before rendering its decision.

Members of the Board shall serve without compensation, but they shall be reimbursed for expenses incurred in the performance of their duties in accordance with the rules adopted by the Board. Each member shall attend at least one educational meeting on historic preservation per year. This meeting shall have been approved by the State Historic Preservation Officer.

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B. Terms of Office

The terms of office of the members shall be three years, except the terms of two members of the original Board shall expire after two years and the terms of two members of the original Board shall expire after one year. Each member shall serve until the appointment and qualification of his successor. Vacancies on the Board shall be filled within sixty (60) days. When a vacancy occurs during a term of office, it shall be filled within sixty (60) days, and the person selected shall be appointed for the unexpired portion of the term.

C. Officers

The Board shall each year elect members to serve as Chairman, Vice Chairman and Secretary. The Chairman shall preside at the meetings of the Board and shall be the spokesman for the Board. In his absence, the Vice Chairman shall perform these duties. The Secretary shall prepare the minutes of the Board's meetings which shall be available for public inspection.

D. Conflict of Interest

No member of the Board shall vote on any matter that may affect the property, income or business interest of that member.

Section 4.

Powers and Duties of the Board

A. Specific Powers

In addition to the powers and duties stated elsewhere, the Board shall take action necessary and appropriate to accomplish the purpose of this Ordinance. These actions may include, but are not limited to, the following:

- (1) Conducting a survey of historic buildings and areas and preparing a plan for their preservation;
- (2) Soliciting public input for the purpose of collecting information to assist in making recommendations to the Planning and Zoning Commission and City Commission.
- (3) Recommending to the City Commission and the Planning and Zoning Commission designation of historic districts and individual landmarks;

(4) Adopting written guidelines for making exterior changes to designated property and for undertaking new construction on designated property;

(5) Regulating alterations visible to the public that are proposed for designated property; regulating demolitions, relocations, and new construction involving designated property;

(6) Working with and advising the Federal, State and County governments and others parts of City government;

(7) Advising and assisting property owners and other persons and groups including neighborhood organizations who are interested in historic preservation; and

(8) Conducting educational programs including the preparation of publications and the placing of historical markers.

B. Rehabilitation of Buildings

The Board may initiate and encourage plans for the preservation and rehabilitation of individual historic buildings. The Board shall, on a regular basis, give recognition to owners and tenants who maintain or rehabilitate their historic buildings with care and thus contribute to the preservation of the history of Danville.

C. Survey of Historic Buildings

In making its survey of historic buildings and areas, the Board shall conduct this work in accordance with the guidelines of the Kentucky Heritage Council. The Board shall provide that its survey and preservation plan shall be maintained and continued. The Board shall use the preservation plan to assist the City and the Planning and Zoning Commission in their overall planning efforts.

D. Meetings of the Board

The Board shall adopt and make public rules for the transaction of its business and shall hold monthly public meetings and special public meetings, when necessary. All meetings shall have a previously available agenda and shall comply with the Kentucky Open Meeting Statute, KRS 61.805. A simple majority of the membership shall be required for decisions involving historic districts and landmarks.

E. Annual Report

The Board shall prepare and keep on file, available for public inspection, a written annual report of its activities, cases, decisions, qualifications of members and other work.

F. Right to Receive and Spend Funds

The Board, in addition to any appropriations made by the City of Danville, shall have the right to receive, hold and spend funds which it may legally receive from any and every source both in and out of the Commonwealth of Kentucky for the purpose of carrying out the provisions of this Ordinance.

G. Other Duties Under the Certified Local Government Program

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.

H. Assistance for the Board

The Board shall receive regular assistance in the performance of its responsibilities from the City staff. In addition, the City may, by contract, obtain assistance on preservation matters from a professional with expertise in historic preservation, architecture, or a closely related field.

Section 5.

Nominations to the National Register of Historic Places

A. Initiation of Nominations

As a participant in the Certified Local Government program, the City must initiate all local nominations to the National Register of Historic Places. The City Commission and the Board shall submit recommendations on each proposed nomination to the National Register. The Commission and the Board shall obtain comments from the public that shall be included in their National Register recommendations. Within sixty (60) days of the receipt of a nomination from a private individual or the initiation of a nomination by the City, the City shall inform the Kentucky Heritage Council and the owner of the property of the two recommendations regarding the eligibility of the property. If the Commission and the Board do not agree, both opinions shall be forwarded in the City's report. If both the Commission and the Board recommend that a property not be nominated, the Kentucky Heritage Council shall inform the property owner, the Kentucky Historic Preservation Review Board and the State Historic Preservation Officer, and the property will not be nominated unless an appeal is filed with the State Historic Preservation Officer.

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B. Review of Nomination

If the Commission and the Board agrees that a property should be nominated or if either of them feel that a property should be nominated, the nomination will receive a preliminary review by the Kentucky Historic Preservation Review Board. The Review Board shall make a recommendation to the State Historic Preservation Officer who decides whether to forward the nomination to the U.S. Secretary of the Interior who shall make the decision on listing the property on the National Register. The Commission, the Board or the property owner may appeal the final decision by the State Historic Preservation Officer.

Section 6.

Designation of Historic Districts and LandmarksA. Recommendations and Designations

The Board shall recommend to the City Commission the designation of historic districts and individual landmarks, and the City Commission may make these designations by the enactment of ordinances. In addition, a property owner, any resident of Danville or any organization may ask the Board to study a property or an area and then to vote on whether or not to start the process for designating it as historic.

B. Public Hearing and Notice

To start the designation process, the Board shall assemble information about the district or property being considered for designation and shall schedule a public hearing on the proposed designation. Advertised notice of the hearing shall be given, including conspicuous posting in the proposed district or on the lot of the proposed landmark or property for fifteen (15) consecutive days immediately prior to the hearing. At least fifteen (15) days prior to the public hearing written notice shall be given by first class mail to the owners of property under consideration and the owners of all adjoining property. The Secretary of the Board or other officer of the Board shall certify that the notices were mailed. Written notice shall be considered sufficient when it is mailed to the person listed on the tax rolls of the City. Owners and any interested person may present testimony and evidence at the public hearing on the designation. The record on the designation may also include letters received by the Board.

C. Guidelines

Before its first public hearing on a designation, the Board shall adopt general guidelines that will apply to historic districts and landmarks or property and will assist owners in the preservation and rehabilitation of their property.

The guidelines shall be submitted to the Planning and Zoning and the City Commission for their approval. The guidelines shall include the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings and may include other guidelines that will apply to all designated property to the City. In its guidelines and in its decisions the Board shall not limit new construction to any one architectural style but shall seek to preserve the character and integrity of the historic districts and landmarks or properties. The guidelines shall suggest changes that would be appropriate for landmarks or for property in historic districts and shall refer to appropriate work completed on property in Danville so that applicants may visit those sites. The Board may expand or amend the guidelines it has adopted provided it holds a public hearing on the changes and submits the proposed changes to the Planning Commission and the City Commission for their comments and approval.

D. Criteria for Designation

A historic district or a landmark or property shall qualify for designation when it meets one or more of the following criteria which shall be discussed in a Board report making its recommendations to the City Commission:

- (1) Its character as an established and geographically definable residential neighborhood, united by culture, architectural styles or physical plan and development;
- (2) Its character as a geographically definable area possessing a significant concentration of buildings or structures united by past events or by its plan or physical development;
- (3) Its value as a reminder of the cultural or archaeological heritage of the City, state or nation;
- (4) Its location as a site of a significant local, state or national event;
- (5) Its identification with a person or persons who significantly contributed to the development of the City, state or nation;
- (6) 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;
- (7) Its value as a building that is recognized for the quality of its architecture and that retains sufficient elements showing its architectural significance; or

(8) Its distinguishing characteristics of an architectural style valuable for the study of a period, method of construction, or use of indigenous materials.

E. Report to the City Commission

After evaluating the testimony at its public hearing, survey information and other material it has assembled, the Board shall make its recommendation to the City Commission with a written report on the area or property under consideration. The report shall also contain information about the buildings which have been identified for inclusion in the proposed designation. The recommendation and the report shall also be sent to the Planning Commission.

F. Report by the Planning Commission

The Planning Commission shall hold a public hearing, after which it shall report on the relationship between the proposed historic district designation and existing and future plans for the development of the City. If the Planning Commission recommends the approval of the proposed historic district designation, it shall prepare a proposed overlay for the zoning map showing said historic district. The Planning Commission shall forward its comments and recommendation for the proposed zoning map overlay addition to the City Commission. If the Planning Commission does not approve of the proposed designation, it shall forward its comments to the City Commission in the form of a recommendation.

G. Action by the City Commission

The City Commission shall approve, modify or disapprove the proposed designation and the map amendment within sixty (60) days after receiving the recommendation for the proposed overlay from the Planning Commission. If approved, official zoning map shall be so marked.

H. Relationship to Zoning

The property in a historic district shall be subject to the Zoning Ordinance and Subdivision Regulations and other rules of its underlying zoning district. A landmark shall be subject to the Zoning Ordinance and Subdivision Regulations and other rules of its zoning district.

When there is a conflict between this ordinance and the Zoning Ordinance or Subdivision Regulations, the higher standard shall govern.

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The applicant shall

provide where applicable, drawings of the proposed work, photographs of the existing building or site and adjacent properties, and information about the building materials to be used.

C. Stop Work Order; Injunction

In the event work is being performed without the required Certificate of Appropriateness, the Board shall direct the Building Inspector to issue a Stop Work Order. All work shall cease on the designated property. No additional work shall be undertaken as long as such Stop Work Order shall continue in effect. The Board shall meet with the owner or his agent to resolve the problem. The City Attorney may seek in Circuit Court an injunction and any other appropriate relief in order that the intent of this Ordinance shall be carried out. The procedures authorized in this subsection may also be used in the event work is being performed which is not in accordance with the Certificate of Appropriateness issued by the Board.

D. Action by the Board of Architectural Review; Notice

The Board shall hold a public hearing on each Certificate of Appropriateness within forty-five (45) days after a completed application is received by the Board. The Board shall make a decision on the application within forty-five (45) days after the receipt of a completed application provided that the Board may extend the time for decision an additional sixty (60) days when the application is for a demolition or new construction. The Board shall approve or disapprove each application, and it shall give its reasons for its decision using the criteria contained in this section and in its guidelines. The Board may suggest modifications to an application and where agreed upon by the owner or his agent may then approve a Certificate of Appropriateness providing for revisions in the plans submitted. If the Board fails to decide on an application within the specified time period, the application shall be deemed approved.

Applicants shall be given notice of the public hearings and meetings relating to their application and shall be informed of the Board's decision. When an application has been approved, the applicant shall be given a Certificate of Appropriateness. Advertised notice of the public hearing shall be given, including conspicuous posting on the property for five (5) consecutive days immediately prior to the hearing.

Ordinary maintenance and repairs may be undertaken without a Certificate of Appropriateness provided this work on a landmark or a property in a historic district does not change its exterior appearance that is visible to the public. Every person in charge of a landmark or a property in a historic district shall keep it in good repair: (1) all of the exterior portions of such buildings or structures; and (2) all interior portions thereof which, if not so maintained, may cause such buildings or structures to deteriorate or to become damaged or otherwise to fall into a state of disrepair. The purpose of this provision is to prevent a person from forcing the demolition of his building by neglecting it and by permitting damage to the building because of weather or vandalism.

No provision in this Ordinance shall be interpreted to require an owner or tenant to undertake an alteration or to restore his building to its original appearance. The provisions of this section shall be in addition to the provisions of the Kentucky Building Code requiring buildings and structures to be kept in good repair.

H. Meetings with Owners about Condition of Buildings

The Board shall request a meeting with a property owner when his landmark or his building in a historic district is in poor repair, and the Board shall discuss with the owner ways to improve the condition of his property. After this step, the Board may request the Building Inspector to take action to require correction of defects in any building or structure designated under this Ordinance so that such building or structure shall be preserved in accordance with the purposes of this Ordinance. Action taken by the City may include boarding up the doors, windows and other parts of the building and additional steps to stabilize walls, roofs and other parts of the building or structure.

I. Emergency Situations

In any case where the Building Inspector determines that there are emergency conditions dangerous to life, health or property affecting a landmark or a property in a historic district, he may order the remedying of these conditions without the approval of the Board. When it is possible, he shall consult with the Chairman or Vice Chairman of the Board about the action being taken. If consultation is not possible, the City shall notify the Board of the action taken after the completion of the work.

J. Demolition of a Landmark or a Building or Structure in a Historic District

When an applicant wishes to demolish a landmark or a building or structure in a historic district, the Board shall negotiate with the applicant to see if an alternative to demolition can be found. The Board may ask interested individuals and organizations for assistance in seeking an alternative to demolition and in obtaining estimates on rehabilitation costs for the threatened building. After its public hearing, the Board may decide that a building or structure in a historic district may be demolished because it does not contribute to the historic district.

On all other demolition applications, the Board shall study the question of economic hardship for the applicant and shall determine whether the landmark or the property in the historic district can be put to reasonable beneficial use without the approval of the demolition application. In the case of an income-producing building, the Board shall also determine whether the applicant can obtain a reasonable return from his building. The Board may ask applicants for additional information to be used in making these determinations.

If economic hardship or the lack of a reasonable return is not proved, the Board shall deny the demolition application unless the Board finds grounds to grant the demolition application under the points contained in section 7.E.

K. Moving a Landmark or a Building or Structure in a Historic District

When an applicant wishes to move a landmark or a building or structure in a historic district or when an applicant wishes to move a building or structure to a lot containing a landmark or to a property in a historic district, the Board shall consider: (1) The contribution the building or structure makes to its present setting; (2) whether there are definite plans for the site to be vacated; (3) whether the building or structure can be moved without significant damage to its physical integrity; and (4) the compatibility of the building or structure to its proposed site and adjacent properties. These considerations shall be in addition to the points contained in section 7.E.

L. Length of Validity of Certificate of Appropriateness

A Certificate of Appropriateness shall remain valid for one (1) year after it is issued. Work is required to start before the end of the one year period. If actual work is not commenced within one year the certificate is invalid. Actual work is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition is required preparatory to rebuilding, such excavation or demolition shall be deemed to be actual work provided that it shall be carried out diligently.

M. Appeal of the Board's Decision

The applicant shall have an appeal to the Circuit Court from a decision of the Board on an application for a Certificate of Appropriateness, within thirty (30) days of the action of the Board.

Conformity with the Certificate of Appropriateness

All work performed pursuant to a Certificate of Appropriateness shall conform to the provisions of such Certificate. It shall be the responsibility of the Building Inspector and the Board to inspect from time to time any work being performed to assure such compliance. In the event work is being performed which is not in accordance with such Certificate, the Board shall direct the Building Inspector to issue a Stop Work Order. All work shall cease on the designated property.

No additional work shall be undertaken as long as such Stop Work Order shall continue in effect. The Board shall meet with the owner or tenant to resolve the problem. The City Attorney may seek in Circuit Court an injunction and any other appropriate relief in order that the intent of this Ordinance shall be carried out.

Section 9.

Penalties

Any person violating any of the provisions of this Ordinance shall be fined not less than fifty (\$50) dollars, nor more than five hundred (\$500) dollars for each offense. Each day's violation shall constitute a separate offense.

Section 10.

Severability

The provisions of this Ordinance are hereby declared to be severable and, if any section, phrase or provision shall, for any reason, be declared invalid or unconstitutional, such declaration of invalidity or unconstitutionality shall not affect the validity of the remainder of this Ordinance.

Section 11.

Effective Date

This Ordinance shall take effect upon its adoption, approval and publication as required by law.

GIVEN FIRST READING AND PASSED 6-22-93.

GIVEN SECOND READING AND PASSED 6-30-93.

PUBLISHED IN THE ADVOCATE-MESSENGER 7-11-93.

CITY OF DANVILLE, KENTUCKY

BY: John W. D. Bowling
JOHN W. D. BOWLING, MAYOR

ATTEST:

Cindi Woolum
CINDI WOOLUM, CITY CLERK