

BY-LAWS – COURTHOUSE AREA DESIGN REVIEW BOARD
REVISED JANUARY 16, 2008

WITNESSETH: The Courthouse Area Design Review Board, in order to carry out the general powers conferred upon it by Ordinance No. 326-2000 creating Article 27 of the Zoning Ordinance of the Lexington-Fayette Urban County Government, does hereby adopt the following by-laws to govern its proceedings.

ARTICLE I - NAME OF BOARD

The name of the Board for all of Lexington-Fayette Urban County is "The Courthouse Area Design Review Board of the Lexington-Fayette Urban County Government."

ARTICLE II - PURPOSE

The Courthouse Area Design Review Board shall be the reviewing body for changes to sites and structures in the Courthouse Area Design Overlay Zone including proposed exterior alterations, demolitions, relocations and new construction. The Board shall:

- ☐ promote those qualities in the environment which bring value to the community;
- ☐ foster the attractiveness and functional utility of the community as a place to live and work;
- ☐ preserve the character and quality of Lexington's heritage by maintaining those areas which have special historic significance;
- ☐ protect investment in those areas;
- ☐ raise the level of community expectations for the quality of its environment.

ARTICLE III - AUTHORIZATION

The authorization for the establishment of this Board is set forth under Article 27-4 of the Zoning Ordinance of the Lexington-Fayette Urban County Government.

ARTICLE IV - MEMBERSHIP

- A. **Appointment.** The Board shall consist of five (5) members appointed by the Mayor subject to confirmation by a majority of the members of the Lexington-Fayette Urban County Council. The term of office of each member shall be four (4) years. Terms shall be staggered in such a manner to allow the appointment or reappointment of at least one half of the membership every two (2) years and shall extend from July 1 of one year through June 30 of the designated year. Vacancies will be filled as outlined in Article 27 of the Zoning Ordinance. Members may serve consecutive terms but must go through the reappointment process to do so. Resignations should be in writing to the Chairman of the Board.
- B. **Qualifications.** Members must be residents of and have knowledge of Fayette County and have demonstrated an interest in design, planning, or historic preservation. Two (2) of the members shall be design, planning, or preservation-related professionals. These include the professions of: architecture, history, archaeology, architectural history, historic

preservation, urban design or related disciplines such as urban planning or landscape architecture. At least one (1) member shall be a property or business owner within the Courthouse Area Overlay Zoning District. At least one (1) member shall be an employee of the Lexington-Fayette Urban County Government who is not the Design Review Officer. At least one (1) member shall be a representative of the banking or financial community. All members must adhere to Article 16 "Code of Ethics" of the Urban County Charter.

- C. Removal. Any member may be removed from the Board by a majority vote of the Council of the Lexington-Fayette Urban County Government for inefficiency or neglect of duty. If a member misses, without reasonable cause, three consecutive meetings or does not attend at least 75 percent of the meetings during the year, his record of attendance may be submitted by the Chairman to the Mayor for his consideration, after majority vote of the Board.

ARTICLE V - OFFICERS

The Design Review Board shall have officers who may succeed themselves.

- A. Number and Election. The Officers of the Courthouse Area Design Review Board shall consist of a Chairman and a Vice-Chairman. At its first meeting and every January after that, the Board shall elect a Chairman and a Vice-Chairman. Nominations shall be made from the floor and the candidate receiving the majority vote of the membership in attendance shall be declared elected for a period of one year. This member shall be eligible for re-election and shall serve until their successor takes office. Vacancies in office shall be filled immediately by this election process. There will be a Secretary of the Board, this position shall be held by the Design Review Officer, who shall also serve as a non-voting member of the Courthouse Area Design Review Board.
- B. Chairman. The Chairman shall preside at all meetings and public hearings of the Courthouse Area Design Review Board. The Chairman shall call special meetings of the Board when required, and shall act as spokesman for the Board. The Chairman shall vote only in the case of a tie on items brought before the Board.
- C. Vice-Chairman. The Vice-Chairman shall serve as Chairman during the temporary absence or disability of the Chairman and shall assume the duties of Chairman during the Chairman's absence or if the office of the Chairman is vacated. In case of absence of the both Chairman and Vice Chairman at any meeting, the Board shall designate a temporary Chairman for such meetings.

ARTICLE VI - STAFF

The Mayor's Office of Economic Development shall provide staff support to the Design Review Board.

ARTICLE VII - MEETINGS

The Courthouse Area Design Review Board shall hold a public hearing within sixty (60) days after an application for a Authorization Permit has been filed in order to vote on its approval or disapproval. This requirement does not apply in those areas, which have been designated to the Design Review Officer. The Board shall meet quarterly, and thereafter in special meetings as needed to review any applications that cannot be approved by the staff. The Board, on a yearly basis, shall determine its meeting schedule for the coming year. This meeting schedule shall be available in the Mayor's Office of Economic Development.

Pursuant to KRS 61.805 et. seq., meetings shall be in a public place and be open to the public.

- A. Public Hearing - As specified in Article 27 of the Lexington-Fayette Urban County Zoning Ordinance, the Courthouse Area Design Review Board must hold a public hearing to approve or disapprove an Authorization Permit except as noted above. Notice of the public hearing shall be made as specified in Article 27 of the Lexington-Fayette County Zoning Ordinance. It shall be the obligation of the economic development staff to prepare, verify and mail all notices required.
- B. Quorum - A simple majority of the total membership of the Board shall constitute a quorum for transaction of business. In case of an abstention by a member when only three (3) members are present at a meeting, the official action may be taken by the other two members.
- C. Disqualification - Any member of the Courthouse Area Design Review Board who has any direct or indirect financial interest in the application for a Authorization Permit before the Board, shall disclose the nature of the interest to the Chairman and shall disqualify himself from voting on the application. At any time a member, to suit his own conscience, may abstain from voting without having to reveal the reason for his abstention.

ARTICLE VIII - MEETING PROCEDURES

- A. SOUNDING THE AGENDA
In order to expedite completion of agenda items, the Chair will sound the agenda in regard to any postponements, withdrawals and items requiring no discussion.
 - 1. Postponements or Withdrawals -- The Chairman will ask for any items where postponement or withdrawal is being requested.

Applicants should announce their request. The chair will then ask if anyone objects. Objection may come from the general public or a member of the Board. The Board shall vote on each individual request.

2. No Discussion Items -- The Chairman will ask if there are any other agenda items where no discussion is needed...that is:
 - a. All recommendations are in agreement including any conditions noted.
 - b. The applicant agrees with the recommendations.
 - c. No one present objects to the Board acting on the matter at this time without further discussion.
 - d. Board will take action on each case where there is agreement.
3. Should there be any objection by a Board member, Staff or anyone attending the meeting the item shall be heard.

B. Guidelines

In reviewing proposals, the Courthouse Area Design Review Board shall apply to the Design Guidelines for the Courthouse Area adopted by the Lexington-Fayette Urban County Council.

C. Authorization Permit for Exterior Changes/New Construction

The Courthouse Area Design Review Board, when it deems necessary to review a particular application, may require the submission of any or all of the following items: architectural plans, plot plans, landscaping plans, plans for off-street parking, plans for proposed signs, elevations of all portions of proposed additions to structures, photographs, elevations or perspective drawings showing the proposed structure and existing structures that are within 100 feet or are substantially related to it visually or by reason of function, traffic generation or other characteristics.

If the Courthouse Area Design Review Board finds that the material submitted is not adequate for proper review of the proposal, the Courthouse Area Design Review Board shall promptly notify the applicant and state the specific information that will be required. In such cases, the applicant shall not be deemed to have made a bona fide application to the Courthouse Area Design Review Board until the specific information is submitted.

The Courthouse Area Design Review Board shall examine the architectural design and the exterior surface treatment of the proposed construction on the site in question and its relationship to other structures within the area and the relationship of the proposed construction to the

design of the building. The Board shall examine any other pertinent factors affecting the appearance and efficient functioning of the Courthouse Area Design Overlay District.

The Board shall not consider any interior arrangement except as these changes relate to the exterior.

The Board shall make no requirements except for the purpose of preventing development incongruous in scale, design or materials to the district.

The Courthouse Area Design Review Board shall vote to approve all or part of the application or disapprove all or part of the application within sixty (60) days after the completed application is filed. The Courthouse Area Design Review Board shall forward its decision and the reasons for its decision to the Division of Building Inspection.

If the Board fails to take any action upon an application within sixty (60) days after the completed application has been filed, and unless a mutual written agreement between the Courthouse Area Design Review Board and the applicant has been made for an extension of time, the application shall be deemed to be approved and an Authorization Permit shall be issued.

D. Procedures – Authorization Permit Application for Demolition/ Moving/ Relocation

The Courthouse Area Design Review Board shall issue no Authorization Permit for a demolition, moving or relocation except through procedures for application as expressly authorized in Article 27-6(c) of the Lexington-Fayette Urban County Zoning Ordinance.

The Design Review Board, at a public hearing, may vote to postpone action to approve or deny an application for a reasonable period not to exceed one (1) year from the filing date of application.

This time period is intended to allow opportunity:

- ☐ to consider alternatives to demolition,
- ☐ study the question of economic hardship for the applicant
- ☐ determine whether the property can be put to reasonable beneficial use without the approval of demolition, and
- ☐ determine whether the applicant can obtain a reasonable return from his/her existing building.

If economic hardship or the lack of a reasonable return is not proved, the

Courthouse Area Design Review Board shall deny the demolition application, giving the facts and reasons for its decision.

If the owner wishes to make a claim that the denial of the permit would amount to a taking of the property without just compensation, the owner shall submit to the Courthouse Area Design Review Board, not less than twenty (20) days prior to the public hearing, the following information.

1. For all property:
 - a. The amount paid for the property, the date of purchase and the party from whom purchased including a description of the relationship, if any, between the owner and the person from whom the property was purchased.
 - b. The assessed value of the land and improvements thereon according to the two (2) most recent assessments recorded in the Office of the Property Valuation Administrator.
 - c. The two most recent real estate tax bills.
 - d. Annual debt service, if any, for the previous two (2) years.
 - e. All appraisals obtained within the previous two (2) years by the owner in connection with his purchases, financing or ownership or the property.
 - f. Listings of the property for sale or rent, price asked and offers received, if any.
 - g. Any consideration by the owner as to profitable adaptive uses for the property.
2. For income-producing property:
 - a. Annual gross income from the property for the previous two (2) years.
 - b. Itemized operating and maintenance expenses for the previous two (2) years.
 - c. Annual cash flow, if any, for the previous two (2) years.

The Courthouse Area Design Review Board may require that the property owner furnish such additional information as the Courthouse Area Design Review Board believes is relevant to its determination of taking without just compensation and may provide in appropriate instances that such additional information be furnished under seal. In the event that any of the required information is not reasonably available to the applicant and cannot be obtained by the applicant, the applicant shall file with his affidavit a statement of the information, which cannot be obtained, and shall describe the reasons why such information cannot be obtained.

Should the Design Review Board find that the material submitted is not adequate for the proper review of the proposal, the Courthouse Area Design Review Board shall promptly notify the applicant and state specific

information that will be required. In such cases, the application shall not be deemed to have made a bona fide application to the Design Review Board until the specified information is submitted.

ARTICLE IX - STAFF APPROVAL PROCEDURES

A. General

The Board may delegate specific Authorization Permit review actions to the Design Review Officer, who may review applications without public hearing and action of the Board. Review by the Design Review Officer does not require full public hearing and action by the Board. The delegation of specific items shall be approved by the Board at a public hearing and recorded in the minutes of the Board. A list of the specifically delegated actions shall be available in the Mayor's Office of Economic Development for public information. The Board delegates to the staff the authorization to issue Authorization Permits for all covered activities with the exception of the following: demolition, new construction on vacant lots, additions to existing structures where the proposed activity exceeds 20 percent of the existing floor area, changes to doors and windows, signage and changes to facades.

B. Filing

The applicant shall file sufficient information as to accurately depict the location, design and scope of the work to be done. The staff shall review the information and promptly notify the applicant if the material is not adequate for review and advise the applicant what specific information will be required.

C. Review

The staff shall review the application for compliance with the adopted guidelines and consult with other Divisions as appropriate to ensure proper review. Upon determination that all requirements of the guidelines have been met and that the application complies with the requirements of the Board, the Design Review Officer shall approve the application and issue the Authorization Permit. If any questions arise as to compliance or if the Design Review Officer or applicant feels that the application raises issues deserving review by the full Board, the request shall be referred to the Board for action.

D. Issuance

Upon approval by the Design Review Officer, the staff shall issue the Authorization Permit and notify the applicant. In addition, the staff shall notify the Board at its next regularly scheduled meeting of any Authorization Permits, which have been issued. A copy of the Permit and application materials shall also be forwarded to the Division of Building Inspection and/or the Division of Code Enforcement as appropriate.

ARTICLE X - AMENDING AUTHORIZATION PERMITS

The Board may hear proposed amendments to Authorization Permits without full re-hearing and notice when the following conditions exist:

- A. an Authorization Permit has been issued for the project
- B. an alternative proposal for amending the Authorization Permit has been filed with the Mayor's Office of Economic Development staff for the Board's review
- C. no stop work order has been issued by the Division of Building Inspection staff
- D. the alteration does not encompass one of the following:
 - ☐ a change in dimension of a building or site element of six (6) inches or more in each dimension
 - ☐ a change in location of a building or site element by a distance of 1'-0" or more in any direction

When all of these conditions exist, staff shall schedule the amendment item on the next Board meeting agenda. Should any one of the conditions not exist, the staff shall schedule the proposed amendment for full hearing as set forth in Article 27-6 (b)(1) of the Lexington-Fayette Urban County Zoning Ordinance.

ARTICLE XI - CONSIDERATION OF PREVIOUSLY DISAPPROVED AUTHORIZATION PERMITS

A. While Appeal Filed and Pending

The Board shall not re-hear any application, even when based on new evidence, while an appeal to the Planning Commission or Fayette County Circuit Court is pending, unless so directed to re-hear the case by the vote of the Planning Commission or by decision of the Circuit Court, except for the following exception:

The Board may agree to determine whether it will re-hear the case based on new evidence. However, this full re-hearing of the case shall not be heard while an appeal is pending on the case.

B. Where the Authorization Permit is Disapproved

The Board shall not re-hear applications previously disapproved for a period of one (1) year from the time of the Board's disapproval, unless the Board determines that new evidence exists changing facts or circumstances of the original application.

To determine the existence of new evidence, the Board shall consider:

1. the contents of the application at the time of the request for rehearing
2. the oral and written arguments presented in the public hearing from the applicant regarding his/her reasons for a new hearing request.
3. the contents of the application at the time of the original request (and eventual disapproval).
4. the discussion and action on the original application, including review

of staff reports, minutes and other documentation of the disposition of the original application. Suggestions by the Board can be considered, but shall not preclude a re-hearing if those suggestions were not acted upon in the original hearing.

In reviewing these materials, the Board, without considering the appropriateness of the altered proposal, shall determine whether sufficient new evidence exists, meriting a re-hearing of the application. The Board's consideration of the application shall take into consideration the new evidence presented. The Board's decision to re-hear need not be restricted solely to new evidence. To determine that new evidence exists, a majority vote must be taken from the floor. If the new evidence is withdrawn at any time during re-hearing by the applicant, the Board shall have no authority to reconsider the application.

Following determination and approval of a hearing based on new evidence, the Board shall consider the proposed application as described in Article 27-6(b)(1) of the Lexington-Fayette Urban County Zoning Ordinance. The request shall be scheduled at the next earliest public hearing.

ARTICLE XII - EXTENSION OF TIME FOR AUTHORIZATION PERMIT

An extension of time for reasonable cause shown may be granted by the Board upon receipt of a written request for an extension from the holder of the Authorization Permit. Such request must be submitted to the Board prior to the expiration of the Authorization Permit. Time extension shall not exceed ninety (90) days in length and no more than two extensions of time will be permitted.

ARTICLE XIII - RULES OF ORDER

The rules contained in the current edition of Robert's Rules of Order Newly Revised, shall govern the Board's proceedings in all cases to which they are applicable and to all cases where they are not inconsistent with these bylaws or any special order the Board may adopt.

ARTICLE XIV - AMENDING BY-LAWS

These by-laws may be amended by the majority vote of the full membership of the Courthouse Area Design Review Board.

APPROVED: November 20, 2001
REVISIONS APPROVED ON October 18, 2004 and October 4, 2006.