

**CHAPTER ????
ARCHITECTURAL DESIGN REVIEW ~~OVERLAY DISTRICT~~**
2nd Revision
(Changes in ***Bold Italics***)

???? PURPOSE

The purpose of the Chapter is to define the process for project review the design standards and other procedures related to Architectural Design Review ~~Overlay District~~ as defined and designated by the Kent City Council. Additionally, the application and enforcement of this Chapter and related Kent Codified Ordinance sections shall be to encourage physical modifications to buildings and properties, including the installation of signage, which is compatible with surrounding properties and consistent with the architectural and historical function of the building itself.

???? DESIGN GUIDELINES

For the purposes of this Chapter, the Design Guidelines for the Kent Design Overlay District(s) ~~& Listed Properties~~ (hereinafter referred to as DESIGN GUIDELINES) as adopted by Kent City Council on **November 18, 2009**, and as subsequently amended shall be the design guidelines utilized and referred to herein.

???? APPLICABILITY

The provisions of this Chapter and related sections of the Kent Codified Ordinances shall be applicable to properties located within the one or more Architectural Design Review Overlay Districts **enumerated in Chapter ???? .** All projects subject to review, as defined in Section ???? ~~herein~~, shall be reviewed for compliance with the requirements set forth herein. All such projects shall obtain a Certificate of Appropriateness from the Architectural Review Board prior to submitting applications for other additional reviews which may be required, including Site Plan Review, Conditional Zoning Certificates, Sign Permits, Zoning Permits or Building Permits. ***Use of the DESIGN GUIDELINES outside of the Overlay District(s) is recommended but not required.***

???? SEVERABILITY

If a court of competent jurisdiction shall adjudge any provision of this Chapter invalid or unenforceable, then the remaining provisions of this chapter shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law.

???? DEFINITIONS

The following definitions shall apply to the provisions of this Chapter including the criteria to be applied by the Architectural Review Board in the implementation of this Chapter:

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(a) Alter or Alteration - any change in the external architectural features of a building or structure.

(b) Certificate of Appropriateness - a Certificate issued by the City which is authorized by the Architectural Review Board and applicable to projects and improvements within **an** Architectural Design Review Overlay District and as may be otherwise defined herein. The issuance of a Certificate Of Appropriateness indicates that the Architectural Review Board has reviewed and approved the proposed improvements but does not constitute a building or zoning permit.

(c) Community Development Director – the Community Development Director of the City of Kent.

(d) Design Guidelines (DESIGN GUIDELINES) - the Design Guidelines for the Kent Design Overlay District~~(s)~~ ~~and Listed Properties~~ as adopted by Kent City Council and any amendments thereto.

(e) Architectural Review Board - the Architectural Review Board shall be responsible for reviewing projects and improvements conducted on buildings, structures and sites within the Architectural Design Review Overlay District~~(s)~~ and shall have the authority to issue Certificates of Appropriateness for those projects which it finds to be in compliance with the ~~Design Guidelines~~ (DESIGN GUIDELINES).

(f) Demolition - the complete razing or removal of any structure or portion of a structure.

~~(g) Listed Historic District – an area or grouping of structures as determined by the Architectural Review Board and approved by Kent City Council as an architecturally or historically significant group and located within the corporate limits of the City of Kent. Individual buildings or structures within such Districts may not be individually so designated. Listings of said Districts shall be maintained in the Community Development Department.~~

~~(h) Listed Historic Property – any individual building or structure determined by the Design Review Committee and approved by Kent City Council as architecturally or historically significant and located within the corporate limits of the City of Kent. Listings of said buildings shall be maintained in the Community Development Department.~~

~~(i) National Register of Historic Places – the national listing of significant buildings, structures or districts. Listings must have architectural, archaeological or historical significance.~~

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???? ARCHITECTURAL REVIEW BOARD

(a) Composition - The Architectural Review Board shall be comprised of five (5) members, appointed by Kent City Council. Of the five (5) members, composition to the extent feasible shall be as follows:

(1) A minimum of two (2) professionals practicing in one or more of the following fields: architecture, planning, landscape architecture, history or historic preservation, urban design.

~~(2) A minimum of two (2) property owners or business owners who own property and/or businesses within the Architectural Design Review Overlay District.~~

(b) Term - Members shall serve a term of three years, however the initial appointments made to the Board may be made for a longer time frame in order to allow for the structuring of staggered terms. The staggered terms should be structured in a manner to ensure that no more than two (2) of the terms are open at the same time.

(c) Quorum – A quorum of the Board shall be comprised of a simple majority of the seated (appointed) membership. Any business of the Board may be transacted by a simple majority vote of those members attending the meeting.

(d) Meetings - The Board will meet as needed but generally at least once a month at a time to be determined by the Chairperson, in consultation with Community Development Department staff. All meetings shall be considered public meetings subject to local and state law.

(e) Records – Record of all Board meetings and decisions will be made public in accordance with public record laws. The Community Development Department will provide staff support for the Board and will supply and individual who will be responsible for keeping minutes of all meetings.

(f) Amendments – The Board may recommend from time to time changes to this Chapter as well as changes to the DESIGN GUIDELINES. In the event that any changes to this Chapter or to the DESIGN GUIDELINES are requested by persons or groups separate from the Architectural Review Board, the Architectural Review Board shall review all such amendments and shall recommend to Kent City Council whether such changes shall be adopted. Kent City Council shall have the final authority to amend this Chapter or the DESIGN GUIDELINES.

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(g) Conflict of Interest – Prior to the beginning of the discussion of any application or request for Certificate Of Appropriateness, any Board member whose participation would constitute a conflict of interest shall disclose the nature of the conflict and recuse himself / herself from any discussion and subsequent vote on the application. Any member believing that they may have a conflict of interest should disclose this concern with the Community Development Director, who may in turn seek counsel from the City’s Law Department.

???? ROLE IN DEVELOPMENT REVIEW PROCESS

The Architectural Review Board shall review all new construction, exterior structural modifications, building and site modifications involving all properties located within the Architectural Design Review Overlay District(s). Where only zoning and/or building permits are required for such projects, the Architectural Review Board shall issue a Certificate of Appropriateness prior to the issuance of an building or zoning permit.

In cases where a project requires review by the Planning Commission and/or Board of Zoning Appeals, the Architectural Review Board shall review the project and only issue conditional approval of a Certificate of Appropriateness which shall be subject to the approval of the Planning Commission and/or Board of Zoning Appeals.

???? ARCHITECTURAL REVIEW BOARD DUTIES

It shall be the responsibility of the Architectural Review Board to promote interest and appreciation in historic preservation and compatible building design within the City of Kent. The Commission shall have the following specific responsibilities and duties:

(a) Certificates of Appropriateness – The Architectural Review Board shall have the responsibility of reviewing all proposed projects, building modifications, modifications to existing signage as well as all new signage within the Architectural Design Review Overlay District(s) for the purpose of issuing Certificates of Appropriateness. The Architectural Review Board shall also review for the purpose of issuing a Certificate Of Appropriateness, any building or structure which by itself or as part of a larger project is being provided financial assistance, loans, tax incentives through the City of Kent or from other local, State or Federal programs.

(b) Advisory Comments – The Architectural Review Board shall advise the City of Kent of any efforts which should be considered directed at the protection of local historic or architecturally significant resources. The Architectural Review Board may provide advisory comments (non-binding) to any project being undertaken in the City which is not otherwise subject to review under the provisions of this Chapter.

(c) Certified Local Government – The Architectural Review Board may assist with the application for Certified Local Government status should the City of Kent seek certification. Should the certification be granted, the Architectural Review Board may assist with the implementation of the program if so designated by the City of Kent.

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???? CERTIFICATES OF APPROPRIATENESS

The rules of the Architectural Review Board and its procedures are governed by the Codified Ordinances of the City of Kent and its Charter. The rules and procedures for the processing of applications for Certificates of Appropriateness are as follows:

(a) Exclusions - Nothing in this Chapter or in the approved DESIGN GUIDELINES shall be construed to prevent the ordinary maintenance or repair of any building or structure which is subject to review under the provisions of this Chapter, provided such work involves no alteration to the exterior architectural features of the building, structure or sign which would be subject to review.

(b) Applicability – Refer to Section ????.

(c) When Required - A Certificate Of Appropriateness is required for all proposed projects, building modifications, modifications to existing signage as well as all new signage located within the Architectural Design Review Overlay District(s) where such projects shall be reviewed for conformance with the DESIGN GUIDELINES.

(d) Amended Certificate Of Appropriateness – At any time after an initial Certificate Of Appropriateness is issued to a project, an applicant may seek an amendment to the Certificate Of Appropriateness or its conditions in the event that the design is altered or if the site plan presented as part of the Certificate Of Appropriateness is significantly altered as determined by the Community Development Director. The applicant shall be required to pay all fees required herein and submit the information relevant to the proposed project changes that require amending the Certificate Of Appropriateness.

(e) Expiration – Once a Certificate Of Appropriateness has been issued, all other permits (excluding mechanical permits) shall be obtained within twelve (12) months of the date the Certificate Of Appropriateness is issued, and construction shall begin within eighteen (18) months of the date the Certificate Of Appropriateness is issued. The DRC, upon application as described herein, may grant extensions to either of the above two expiration dates up to twelve (12) additional months.

???? CERTIFICATE OF APPROPRIATENESS APPLICATION REQUIREMENTS / FEES

The following application requirements and fees shall apply to applications for Certificates Of Appropriateness, amendments to Certificates Of Appropriateness and requests for extensions:

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(a) Fees -

(1) Application Fee – The fee for a Certificate Of Appropriateness application shall be \$100 for projects involving building construction or modifications. The fee for projects involving new or modified advertising signs shall be \$50.

(2) Amendment Fee – The fee for requesting an amendment to an existing Certificate Of Appropriateness shall be the same as the Application Fees stated above.

(3) Extension Fee – The fee for requesting an extension to an existing Certificate Of Appropriateness where there are no modifications proposed shall be 50% of the Application Fee. Extensions only apply to Certificates Of Appropriateness where no modification or amendment to the initial Certificate Of Appropriateness is requested. In the event that the extension involves a modification to the Certificate Of Appropriateness, the application shall be treated as an amendment.

(b) Initial Application Submission Requirements – In order to an application to be reviewed and approved, the applicant shall submit drawings, photographs, specifications and material samples as required by the Community Development Department. The Community Development Department shall maintain a list of such requirements as part of its Rules and Procedures for implementing the provisions of this Chapter and shall review such rules and procedures or any modifications to those rules and procedures with the Architectural Review Board. Applications shall be filed in a timely manner in regard to the scheduling of Architectural Review Board meetings and must be complete at the time of submission. Applications for this formal review may be filed concurrently with any Planning Commission or Board of Zoning Appeals application or prior to those applications.

(1) Informal Review – Applicants are encouraged to review the DESIGN GUIDELINES (current version) and the Rules and Procedures applicable to the review process in order to be familiar with requirements that will be applicable to their project. Applicants are also encouraged to discuss their project and relevant Certificate Of Appropriateness requirements with the appropriate Community Development Department staff prior to making any formal submissions. An informal review with the DRC **may be requested by the applicant or recommended by staff** but is not mandatory.

(2) Formal Review - Upon the submission of a complete application for a Certificate Of Appropriateness, the Community Development Department will schedule a meeting date for the Architectural Review Board to review the application. The meeting will be scheduled within 30 days of the application's submission. In the event that the meeting cannot be scheduled within 30 days of the date of application, the applicant will be notified in writing of the delay and the reason for the delay. During the time the between the submission of the application and the formal review of the Architectural Review Board, City staff shall review the plan conceptually for issues regarding the basic layout of the project.

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Staff shall advise the applicant and the Architectural Review Board of any potential concerns regarding public safety or other code compliance that it is able to determine given the information provided with the application.

The applicant, at any point in time prior to Architectural Review Board action, may request that their project be continued, postponed or otherwise delayed for any reason. Such requests shall be made in writing to the Community Development prior to the scheduled Architectural Review Board meeting or may be made in public session at the Architectural Review Board meeting at which the project is being reviewed.

(3) Architectural Review Board Action – After completing its review of the application and the information provided by the applicant, along with any input received from City staff or the general public, the Architectural Review Board shall make a determination of whether to issue a Certificate Of Appropriateness within 30 days of the initial meeting date for the application.

In the event that the Architectural Review Board denies the Certificate Of Appropriateness, it shall provide specific reasons for the denial in writing to the applicant.

When such approvals are granted for projects being reviewed by the Planning Commission and/or the Board of Zoning Appeals, the approval of the Certificate of Appropriateness shall be made subject to the approval of the project and/or zoning variances by the Planning Commission and/or Board of Zoning Appeals.

(4) Appeal – An applicant may appeal any decision of the Architectural Review Board to the Board of Zoning Appeals within 15 days of the date of the Architectural Review Board decision. The appeal will be scheduled at the next available Board of Zoning Appeals meeting as long as it is submitted at least fourteen (14) days prior to the scheduled meeting date. The applicant will be notified of the tentative meeting date at the time the appeal is filed. The application for appeal shall state the reason(s) for the appeal and the requested resolution should the Board of Zoning Appeals decide to overturn the Architectural Review Board’s decision.

(5) Re-application - Any applicant who has been turned down for a Certificate Of Appropriateness by the Architectural Review Board may submit a new application with changes that they believe will address the previous reasons for denial without a waiting period. In the event that an applicant intends to re-apply with the same plan as was previously denied by the Architectural Review Board, the applicant must wait one (1) year from the date of the previous denial.

(6) Issuance of Permits – Projects which do not require Planning Commission or Board of Zoning Appeals approval must obtain their Certificate Of Appropriateness (when a Certificate Of Appropriateness is required) before a Zoning Permit and/or Building Permit is issued.

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(7) Certificate Of Appropriateness Decisions Binding – Certificates Of Appropriateness and conditions attached to a Certificate Of Appropriateness are binding on City staff and the City’s Boards and Commissions unless it can be demonstrated that they are in conflict with applicable building and zoning code requirements, or unless variances to those other requirements have been requested by the applicant and granted by the appropriate authority.

???? PENALTIES

The following provisions for penalties shall apply to violations pertaining to the provisions of this Chapter, the DESIGN GUIDELINES or the conditions of a Certificate Of Appropriateness which is issued for a project.

(a) Violation Order - In the event that any provisions of this Chapter are being violated, all work shall cease upon notification and no work shall be performed except to correct the violation. All violations shall be corrected within the time frame specified in the violation order. Any violations not corrected within the specified time frame may be enforced as a Civil Infraction under Section ???? of the Kent Codified Ordinances, or pursued through a court of appropriate jurisdiction. Compliance with any previously given violation order shall be indicated in writing by the Community Development Department.

(b) Failure to Comply - Anyone who constructs, reconstructs or alters any exterior architectural feature without a Certificate Of Appropriateness shall be assessed fees and other penalties as specified for Civil Infractions under Section ???? of the Kent Codified Ordinances. Each day of violation shall be considered a separate offense. Whoever violates this section shall be required to restore and reconstruct such features in full detail. Restoration or reconstruction shall be in addition to any civil infraction fees and penalties as well as any costs imposed by a court.

(c) Failure to Perform – Anyone who receives a Certificate Of Appropriateness and constructs , reconstructs, or alters any exterior architectural feature other than in accordance with the requirements of the Certificate Of Appropriateness shall be assessed fees and other penalties as specified for Civil Infractions under Section ???? of the Kent Codified Ordinances. Each day of violation shall be considered a separate offense. Whoever violates this section shall be required to make all changes and additions needed to comply with the Certificate Of Appropriateness . Changes or additions shall be in addition to any civil infraction fees and penalties as well as any costs imposed by a court.

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~~????~~ ~~HISTORIC PRESERVATION~~

~~The Architectural Review Board shall also be responsible for facilitating and implementing activities as described herein for the purpose of encouraging historic preservation along with the integrity of buildings and structures having unique architectural design related to a historic period in the City. The Architectural Review Board shall have the responsibility of reviewing projects, building modifications, modifications to existing signage as well as all new signage related to properties defined in Section ???? for the purpose of issuing Certificates of Appropriateness.~~

~~(a) Properties Subject to Review In addition to those properties located in the Architectural Design Review Overlay District, properties designated locally as Listed Historic Properties, properties located within a locally Listed Historic District and properties included on the National Register of Historic Places or those located within a designated District as shown on the National Register shall be subject to review.~~

~~(b) Certificate of Appropriateness The same provisions outlined in the Chapter for making application for a Certificate of Appropriateness, approvals, appeals revisions and the responsibilities of the Architectural Review Board in undertaking its review shall also be applicable to reviews related to Historic Preservation. No work shall be undertaken on properties subject to review prior to the issuance of a Certificate of Appropriateness.~~

~~(c) Applicability of Design Guidelines The provisions of the approved Design Guidelines shall be applicable to projects reviewed under the Historic Preservation provisions of this Chapter and it shall also be understood that the Architectural Review Board adopts in principle, the U.S. Secretary of the Interior's Standards for Rehabilitation. The overall intent of the review is to ensure the procedures and materials used in construction and renovation of buildings on subject properties are compatible with the existing building(s) or structure(s) in the area and help facilitate the structure's preservation into the future.~~

~~(d) Additional Considerations In addition to the Design Guidelines and the applicable Secretary of Interior Standards for Rehabilitation, the following additional requirements should be observed when and where possible:~~

~~(1) Preservation / Rehabilitation / Renovation Buildings, their architectural style and character, should be preserved when possible unless it can be documented that the cost of such preservation or restoration is a financial hardship. The general intent of work to be performed should be to preserve and restore the features which establish a building's architectural character while making renovations necessary for the efficient and contemporary use of the building. It shall be assumed that some alterations may be necessary to meet the needs of the property owner, as well as the health~~

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~~safety and welfare of the occupants. These alterations should be done in a manner which does not destroy the materials and features which define a building's historic, cultural and/or architectural character. The historical materials and features, including craftsmanship should be retained, protected and repaired when possible. When preservation or restoration is not possible, alterations should be conducted in a manner that respects the existing character of the building and as well as the adjacent properties.~~

~~(2) New Construction / Additions New construction, including additions to existing buildings should be designed to enhance the character of the surrounding historical area. Additions should be designed in a manner so as to not detract from the historic character of the building unless the building has already been significantly modified so as to compromise the historic character of the building. Whenever possible, new additions should be located away from the primary street face of the building. Existing architectural features should be retained when possible in order to facilitate potential future restoration to original condition. New buildings should be designed to be compatible with other adjacent structures while still reflecting contemporary design. Such structures should be reviewed in their overall context with regard to proximity and placement. For example infill design should be more consistent with adjoining buildings than a free standing structure which is located at a greater distance from adjoining buildings.~~

~~(3) Demolition As previously noted, it is the interest of these regulations and the community as a whole that landmark buildings and buildings within applicable historic districts be preserved and renovated for economically productive uses. The Architectural Review Board encourages the saving and adaptive re-use of such structures but also realizes that historic areas are not static environments but are evolving over time. Applications for demolition shall be reviewed based on the overall impact the demolition will have on adjacent landmarks, historic districts and the community as a whole. Demolition of existing buildings and structures which are not significant loss or impact to allow for new construction or development which enhances the historic district and the community may be acceptable.~~

~~???? DESIGNATION CRITERIA FOR HISTORIC DISTRICTS OR LANDMARKS~~

~~In considering the designation of any place, building, structure, work of art, or similar object in the City as a Listed Historic Property or Listed Historic District, the Architectural Review Board shall apply the following criteria with respect to such review and the property / properties involved:~~

~~(a) Its character, interest or value shall be part of the development, heritage or cultural characteristics of the City of Kent, State of Ohio or United States of America.~~

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~~(b) Its location shall be a site of significant historical event.~~

~~(c) Its identification shall be with a person who significantly contributed to the culture and development of the City of Kent.~~

~~(d) It exemplifies the cultural, economic, social or historical heritage of the City of Kent.~~

~~(e) Its portrayal shall be of the environment of a group of people in an era of history characterized by a distinctive architectural style.~~

~~(f) It embodies elements of architectural design, detail, materials or craftsmanship which represents architecture of significant character, charm or grandeur.~~

~~(g) Its unique location or singular physical characteristics are representative of an established and familiar visual feature of a neighborhood or of the City.~~

~~???? PROCEDURE FOR DESIGNATING HISTORIC LANDMARKS, BUILDINGS OR DISTRICTS~~

~~(a) A property (building, structure, place or object) may be nominated as a Historic landmark, or a group of properties may be nominated as a Historic District by an individual, group, the Kent Historical Society or the Architectural Review Board. For individual buildings, the property owner shall consent to the nomination. When properties within a proposed area are proposed, at least 75% of the properties owners in the area to be designated shall consent to the nomination. Each owner of private property in such area has one vote regardless of whether the property contributes to the historic or architectural significance of the proposed district.~~

~~(b) When a proposal to establish a single property as a Historic landmark, or a proposal to create a Historic District is received on behalf of the Architectural Review Board (by the Kent Community Development Department), the proposal shall be forwarded initially to the Kent Historical Society for review and recommendation. In the event that the Kent Historical Society or its equivalent does not exist or is not functioning, this step in the process will be skipped. Once the Historical Society makes its recommendation on such a proposal (within 45 calendar days of the date it is forwarded to the Historical Society by City staff), the City shall schedule the matter for review by the Architectural Review Board. This review shall be held within 30 days of the date on which the City receives the recommendation from the Historical Society. When the proposal involves the designation of an area or district, property owners within the area or district shall be notified of the proposal, along with the date and time of the Architectural Review Board meeting.~~

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~~(c) In considering a proposal for the nomination of a property or district, the Architectural Review Board shall consider whether the subject property or district meets one or more of the criteria listed in Section ?????. When one or more of these criteria are met, the Architectural Review Board shall forward a recommendation to City Council on whether the proposed designation should be approved.~~

~~(d) Kent City Council shall consider all recommendations received by the Architectural Review Board in relation to a proposal for designation in a timely manner and may designate the property / area / district as a local Listed Historic Property or Listed Historic District. Upon such approval, the property / area / district shall be placed upon the official records and be subject to the applicable sections of this Chapter and any other relevant requirements of the Kent Codified Ordinances.~~

~~???? SEVERABILITY~~

~~If a court of competent jurisdiction shall adjudge any provision of this Chapter to be invalid or unenforceable, then the remaining provisions of this Chapter shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law.~~