

IX. LEGAL AUTHORITY AND PROCEDURES

A. LEGAL AUTHORITY

Recognizing the scenic and economic value of retaining areas of historic and architectural significance, the Arkansas General Assembly enacted the Historic Districts Act of 1963 permitting cities to create local ordinance historic districts for the purpose of regulating the alteration, restoration, construction, moving, and demolition of structures within the district's boundaries. By adoption of Ordinance No. 14,042, the Little Rock Board of Directors created the MacArthur Park Historic District.

The Arkansas Historic Districts Act requires that cities establish an historic district commission prior to the creation of a local ordinance historic district. The commission must investigate and report on the historic significance of structures within a proposed district. The Act also gives the commission the responsibility of regulating the alteration, restoration, construction, moving and demolition of structures within an established district. This duty is carried out through a process of public notice, public discussion, commission review and the issuance or denial of a Certificate of Appropriateness. The commission's decision to grant or deny a Certificate of Appropriateness involves a determination of whether the proposed change will be appropriate to the preservation of the district's historic significance.

To help define the architectural qualities to be preserved within a district and to provide objective standards and methods for preserving those characteristics, the historic district commission adopts design guidelines. The Little Rock Historic District Commission's adoption of design guidelines is authorized by Ordinance 14,042. This ordinance provides important criteria for determining whether a proposed change is appropriate to the preservation of the District's historic significance. For example, the ordinance requires that in making its determinations of appropriateness, the Commission must consider the following:

- The purpose of the historic district ordinance.
- The architectural or historic value or significance of a building and its relationship to the surrounding area.
- The general compatibility of the proposed change.

The ordinance also requires that the Commission encourage changes which reflect the original design of the structure, based on photographs, written description or other historical documentation and requires that the commission be guided by the following preferences:

- It is preferable to preserve by maintenance rather than to repair original features of the building.
- It is preferable to repair rather than to reconstruct if possible.
- It is preferable to restore by reconstruction of original features rather than to remove or remodel.

The MacArthur Park design guidelines are also based on the National Historic Preservation Act of 1966, which created the National Register for Historic Places and established federal/state partnerships to encourage historic preservation. This federal Act provides standards that are used to determine the appropriateness of work treatments for every grant-in-aid and Preservation Tax Incentive project. These standards and their accompanying guidelines also emphasize repair instead of replacement and recommend limited change to accommodate new usage, thereby helping to ensure preservation of the qualities for which buildings and districts were listed on the National Register.

B. PROCEDURE

(See Appendix B for Flow Chart)

1. COA Requirement and Exemptions.

Owners of property within the MacArthur Park Historic District who wish to alter, move, demolish, or construct a structure on their property are required by Arkansas law to obtain a Certificate of Appropriateness (“COA”) from the Little Rock Historic District Commission. The Arkansas Historic Districts Act provides:

No building or structure, including stone walls, fences, light fixtures, steps and paving or other appurtenant fixtures shall be erected, altered, restored, moved, or demolished within an historic district until after an application for a certificate of appropriateness as to exterior architectural features has been submitted to and approved by the historic district commission.

Codified at Arkansas Code Section 14-172-208 (Michie Repl. 2004).

This COA requirement does not apply to:

- the interior of a structure;
- the use of a structure as defined by the zoning ordinance;
- the ordinary maintenance or repair of any structure, which does not involve a change in design, material or outer appearance;
- changes to a structure which the building inspector or other agent of the city certifies as required for public safety reasons; or
- Additions or changes that are not visible from a public or private street.

See Appendix K for a complete list of items that require a COA or a COC.

References to COA exemptions are found in Arkansas Code Sections 14-172-210 and 14-172-211 (Michie Repl. 2004), and in Little Rock Ordinance No. 14,042 Sections 4 and 6.

2. Initial Inquiry.

To determine whether a COA is required, please refer to Appendix K to these Guidelines. Appendix K lists various types of work, indicates whether a COA is required, and also indicates whether a building permit is required. This chart does not include all aspects of rehabilitation and construction work. If a proposed project is not referenced in Appendix K or if clarification of a particular item is needed, please contact the Historic District Commission staff (“Staff”) as noted in subsection 7 below.

3. Steps to Take if a COA is Not Required.

Step One - Application. Submit to Staff a description of the routine maintenance, exterior painting of non-brick surfaces, landscape plantings, interior changes, or other work for which the owner believes a COA is not required.

Step Two - Staff Approval. If Staff agrees that a COA is not required, Staff will issue a Certificate of Compliance (“COC”). The COC will identify the scope of the proposed changes, any documentation needed and any additional city permits that are required prior to beginning work on the project. The COC must be presented to Planning and Development staff when applying for a building permit and must be displayed at the project site along with the building permit.

4. Steps to Take if a COA is Required.

Step One - Application. If a COA is required, the property owner must obtain a COA application packet from the Department of Planning and Development at 723 West Markham Street, Little Rock, Arkansas

Little Rock HISTORIC DISTRICT COMMISSION
 DEPARTMENT OF PLANNING AND DEVELOPMENT
 723 West Markham Street
 Little Rock, Arkansas 72201-1334
 Phone: (501) 371-4790 Fax: (501) 399-3435

CERTIFICATE OF COMPLIANCE HDC16-XXX

Property Owner: Ima Homeowner
 Address of Property: 123 Anywhere Street

Project Description with Conditions listed:

- 1) Brick Repair
 - a) Replace missing bricks as needed to match existing pattern.
 - b) Use Type O mortar with joint to match existing.
- 2) Fencing Repair/Replace.
 - a) Replacement boards to be same size, material and shape as existing. New fence to be in same location as previous with same number and size of gates.
- 3) Roofing
 - a) Repair roof as needed to address fire damage without changing pitch, valley or gables.
 - b) Remove multiple layers of asphalt roofing and/or additional layers of roofing materials as needed to repair fire damage.
 - c) Replace rafters as needed.
 - d) Repair decking with boards of same thickness, (plywood, chipboard, or 1x boards for decking).
 - e) Reroof with asphalt shingles.
- 4) Trim Boards Repair
 - a) Trim Boards and Siding Repair
 - i) Remove damaged trim boards and siding pieces and replace with boards of same dimension, shape and profile.
 - ii) Caulk, prime, and paint.
 - b) Soffit and Fascia Repair
 - i) Remove damaged trim boards and siding pieces and replace with boards of same dimension, shape and profile.

Staff Signature _____ Date of COC _____
The original is printed on pale orange paper

Figure 170. Certificate of Compliance

Little Rock HISTORIC DISTRICT COMMISSION
 DEPARTMENT OF PLANNING AND DEVELOPMENT
 723 West Markham Street
 Little Rock, Arkansas 72201-1334
 Phone: (501) 371-4790 Fax: (501) 399-3435

CERTIFICATE OF APPROPRIATENESS HDC16-XXX

Property Owner: Shesa Homeowner
 Address of Property: 123 Her Street

1. Install fence around property as approved by Historic District Commission in the lunius 10, 899 hearing. All fencing between 16th street and a line parallel to 19th Street at the front facade of the house shall be 42" tall maximum. Fences in other areas of the property may be up to 72" in height. Fence to match existing on site.

Staff Signature _____ Date of COA _____
The original is printed on pale blue paper

Figure 171. Certificate of Compliance

72201 or by calling (501) 371-4790. The owner must submit the completed application and any required documents, drawings and/or material samples to the Historic District Commission staff at the above address.

Step Two - Notice. As part of the application process, the applicant is required to send a Notice of Public Hearing to the owners of property located within 200 feet of the applicant’s property. This notice must be given on the legal form provided in the application packet and must be sent by certified mail. In addition, notice of the public hearing must be posted on the subject property. The requirements for preparing a list of neighboring property owners and for mailing and posting of the required notice are described in more detail in the application materials. See Appendix H.

Step Three - Public Hearing. At the time specified in the notice, the Historic District Commission will hold a public hearing on the application for a COA. The owner of the subject property or their authorized agent must be present at the public hearing in order to describe the project and answer questions. At the hearing, Staff will present their findings and recommendations based on a detailed analysis of the proposed project in relation to the Historic District Guidelines. Next, the applicant will present their proposal, after which public comment will be invited. Then, the Commissioners will ask questions **and discuss** issues related to whether the proposed project is appropriate to the preservation of the District’s historic significance.

Step Four - Issuance or Denial of Certificate. After the public hearing, the Commission may approve the application in its entirety, approve the application with specified conditions, defer the matter to a subsequent meeting in order to obtain additional information, or deny the application for specified reasons. Upon approval of an application, and after the applicant fulfills any preliminary conditions required by the Commission, Staff will issue the COA. The COA document will include an itemized description of the approved work and any additional requirements for completion of the work.

5. Appeals.

Decisions by the Little Rock Historic District Commission may be appealed to the Pulaski County Circuit Court.

6. Compliance.

The approved COA must be presented to Planning and Development staff prior to obtaining a building permit for the project. Work that deviates from or exceeds the scope of the approved COA may be a violation of the Arkansas Historic Districts Act and could subject the property owner to enforcement action in Little Rock District Court and equitable action in Pulaski County Circuit Court.

Therefore, **if the project plans or specifications change after the COA is approved, Historic District Commission staff must be contacted BEFORE work deviates from the approved plans.**

7. Assistance.

The Little Rock Historic District Commission appreciates the efforts and cooperation of the MacArthur Park Historic District property owners and others in following these guidelines and helping to preserve our historic neighborhoods. These are special places in which to live and work – places with important architectural and landscape resources for Little Rock’s citizens and visitors.

The Commission’s staff is available for consultation to help property owners and their representatives plan and design projects or improvements that will comply with the Historic District’s design guidelines.

FOR INFORMATION OR ASSISTANCE, CONTACT:

Little Rock Historic District Commission
Department of Planning and Development
723 West Markham Street
Little Rock, Arkansas 72201
(501) 371-4790

<http://www.littlerock.org/citydepartments/planninganddevelopment/boardsandcommissions/historicdistrictcomm/>