

Title 09

Historic Regulations



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HISTORIC REGULATIONS

SECTION 1109.01 PURPOSE

- A. The unique attributes of Tallmadge, a historically significant City, are exemplified by the carefully maintained architecture of our historical past, particularly the two architecturally significant structures that remain at the center of this unique community. It is intended that Tallmadge's remaining examples of historical architecture be safeguarded; that new construction be designed so as to reflect the existing historical integrity of the Recognized Heritage Structures. Therefore, the purposes of this Chapter are to:
 - (1) Maintain, safeguard, and enhance the architectural and historical presence of these Recognized Heritage Structures (RHS) throughout the City.
 - (2) Assure that newer construction or renovation is designed to complement the historic characteristics within the Design Control Overlay District (O-DC or DCOD).
- B. The Heritage Commission is authorized to review applications for the construction, alteration, or removal of structures located within the O-DC and any structure that is designated as an RHS. Based upon the Heritage Commission's review, it is authorized to grant a Certificate of Appropriateness (COA) if it determines that the proposed work satisfies the applicable standards set forth under this chapter.
- C. The Heritage Commission is further authorized to submit and to consider applications pertaining to the designation of a structure or structures as an RHS or the removal of a structure or structures from designation as an RHS. Based upon its review, the Heritage Commission shall make recommendations to City Council with respect to the designation or removal of any structure under consideration for designation or removal as an RHS.

SECTION 1109.02 PROCEDURES FOR THE DESIGNATION OF A STRUCTURE AS A RECOGNIZED HERITAGE STRUCTURE (RHS)

- A. The Heritage Commission or a property owner may submit an application for a structure to be included as an RHS at any time, provided that such structure, or a significant portion thereof, is at least one hundred (100) years old. For the purpose of this section, "significant portion thereof" shall mean any portion that has the integrity of design, material and historic significance and is not adversely affected by the remainder of the structure.
- B. When considering an application to designate a structure as an RHS, the Heritage Commission shall hold a public meeting during a regular meeting of the Heritage Commission. At least twenty (20) days prior to the

public meeting, if the applicant is not the property owner, the Heritage Commission shall notify by first class mail each property owner whose structure(s) is being considered for inclusion as an RHS.

- C. If more than one structure is located on a property, prior to the hearing, the Heritage Commission shall determine the number of these structures to be considered for designation.
- D. At the public meeting, the Heritage Commission shall consider the information provided in the application to determine whether any or all of the criteria set forth under 1109.04 are satisfied. In the event the owner of a property that is under consideration for designation as an RHS objects to such designation, then such owner may present information and evidence against the designation of such property.
- E. Not later than 65 days after the conclusion of the public meeting, the Heritage Commission shall make one of the following recommendations to City Council:
 - (1) Recommend in favor of including the structure(s) as an RHS; or
 - (2) Recommend against including the structure(s) as an RHS.
- F. Within sixty-five (65) days of receiving the Heritage Commission's recommendation, City Council shall hold a public hearing at which City Council shall take one of the following actions with respect to the designation of the subject property:
 - (1) Approve the designation;
 - (2) Approve the designation with modifications; or
 - (3) Deny the designation.
- G. In the event City Council denies or modifies an application for designation, City Council shall state its findings of fact and rationale on the record for such modification or denial.

SECTION 1109.03 APPLICATION FOR REMOVAL OF A STRUCTURE FROM DESIGNATION AS AN RHS

- A. The owner(s) of any structure(s) that has/have been previously designated as an RHS may apply to have such structure removed as an RHS upon filing an application with the Zoning Administrator that includes the following information:
 - (1) The property owner shall submit an application for exclusion of the subject property together with evidence and information to support the application for exclusion, including but not limited to any or all of the following:
 - (2) a copy of the owner's title evidence;
 - (3) information about the structure;
 - (4) historical records or relevant statements of previous owners;
 - (5) written statements from professionals with expertise in historic preservation, civil engineering, or related fields on the condition of the structure;
 - (6) color photographs of each elevation; and
 - (7) any other information to assist the Heritage Commission in their review of the removal request.

- B. The Heritage Commission and City Council shall consider an application for the removal of a structure as an RHS in accordance with the public meeting procedures set forth under section 1109.02. In considering an application for removal, the Heritage Commission shall determine whether based on the evidence presented the structure no longer satisfies the criteria for designation set forth under Section 1109.04. The Heritage Commission may solicit input from qualified City staff or consultants to the City and the applicant may present evidence to support its application.
- C. Any consultant and professional service fees required for the review of the application are the responsibility of the applicant and shall be collected prior to any reviews. The funds will be held in escrow by the City and disbursed as the City is billed for the services. Any unused fees will be returned to the applicant upon completion of the review.

SECTION 1109.04 CRITERIA FOR DESIGNATING RECOGNIZED HERITAGE STRUCTURES (RHS)

- A. In order to be designated as a RHS under this chapter, the architecture of the structure or portion thereof that is under consideration for designation shall complement the original structure of these structures shall either adhere to Greek Revival or Federalist style architecture, commonly referred to locally as Western Reserve style architecture, which is the predominant historical architecture in the City, or reflect any other prevailing architectural style of the structure, architectural styling of the historic church constructed in 1825, and/or the historic town hall constructed in 1857 in order for these proposed RHS to complement the City's unique history as an early community on the Connecticut Western Reserve.
- B. In addition to satisfying one of the architectural styles set forth under subsection A above, in order to qualify for designation, the Heritage Commission must determine that the structure or portion thereof satisfies one or more of the following criteria:
 - (1) That it has character, interest, or value as part of the development, heritage, or cultural characteristics of the community, county, state, or country;
 - (2) That its location was a site of a significant local, county, state, or national event;
 - (3) That it is identified with a person who significantly contributed to the development of the community, county, state, or country;
 - (4) That it embodies distinguishing characteristics of an architectural style valuable for the study of a period, type, method of construction, or use of materials;
 - (5) That it is identified as the work of a master builder, designer, architect, or landscape architect whose individual work has influenced the development of the community, county, state, or country;
 - (6) That it embodies elements of design, detailing, materials, or craftsmanship that render it architecturally significant;
 - (7) That it embodies design elements that make it structurally or architecturally innovative;
 - (8) That it has a unique location or singular physical characteristics that make it an established or familiar visual feature;
 - (9) That it is a particularly fine or unique example of a utilitarian structure; or
 - (10) That it is suitable and economically feasible for preservation or restoration.

- (11) That the property owner and/or applicant has committed to maintaining the structure in good repair and to the standards of this chapter.

SECTION 1109.05 CERTIFICATE OF APPROPRIATENESS (COA)

- A. Except as otherwise provided under subsection B hereof, a Certificate of Appropriateness (COA) shall be required under the following circumstances:
 - (1) The alteration of the exterior appearance of any existing structure located in the O-DC or designated as an RHS; or
 - (2) The substantial expansion or any addition to an existing building located in the O-DC or is designated as a RHS, or for the construction of a new building, or portion thereof that is located in the O-DC or is designated as an RHS. For the purposes of this Section “substantial expansion” shall mean an increase of ten (10%) or more of the built footprint of the principal structure proposed in any single application for a COA, provided that the expansion shall not alter the character of the structure nor be visible from the public right of way.
- B. Notwithstanding anything to the contrary contained herein, and unless the structure or property is a RHS, a COA shall not be required (however a Certificate of Design Compliance through a Zoning Application is required) under the following circumstances:
 - (1) The construction or installation of accessory structures or additions that are 200 square feet or less;
 - (2) The construction or installation of outdoor decks or patios;
 - (3) The installation of fences;
 - (4) The construction or installation of pools, provided such pool is constructed of pre-approved materials and colors or are located behind the rear line of the principal building;
 - (5) Re-roofing; re-painting; and re-siding of structures in the O-DC, provided all exterior colors and materials used conform to a pre-approved list by the Heritage Commission or such design guidelines as may be adopted from time to time.
 - (6) Alteration of the exterior appearance of any existing structure located in the O-DC or designated as an RHS that returns the structure back to the original appearance requires a Certificate of Appropriateness (COA) from the Planning & Zoning Department.

SECTION 1109.06 PROCEDURE FOR CERTIFICATES OF APPROPRIATENESS

- A. An application for a COA shall be made on such forms as prescribed by the Zoning Administrator not less than twelve (12) days prior to the regularly scheduled meeting of the Heritage Commission and shall include drawings and supplemental specifications, indicating the building or structure exactly as it is proposed to be built or modified. The number of copies required and the manner of submitting the application shall be determined by the Zoning Administrator. Such documents shall be accurately drawn to scale and dimensioned and shall specifically include the following:
 - (1) A site plan showing the plot configuration and its perimeter dimensions, all structures on the site with locating dimensions, the location of all structures adjacent to the site within fifty (50) feet of the property

line, and all vehicular drives, roads, related parking areas, main walks, walls, fences and major existing landscaping including trees of at least six inch caliper as measured six inches from top of ground in area affected by construction.

- (2) A vicinity map, a north arrow, the first-floor level and existing and finished grade elevations at each corner of new construction and at each corner of the site shall be indicated.
 - (3) Four (4) elevation drawings including front, rear and two side elevations together with additional views or cross sections, if necessary, to indicate completely the exterior appearance of the structures. All elevations shall be drawn to the same scale, which shall be not less than one-quarter inch per foot. Each elevation shall show the accurate location of windows, doors, shutters, chimneys, porches and other architectural features, all materials and finishes, and an accurate finish grade line.
 - (4) Additional details to show unusual construction.
 - (5) Material and color samples of all major finish materials.
 - (6) Drawings or photographs of existing structures that are to remain on the site where new structures are to be constructed. Where additions are to be constructed to existing structures, elevation drawings or photographs showing the location of the addition shall be included.
 - (7) Fee as established by the City.
 - (8) A written narrative describing the proposal and objectives and how the design reinforces the objectives and meets the criteria for the COA.
- B. The Heritage Commission shall determine whether the proposed work will be appropriate to the preservation of the environmental, architectural, or historical character, as applicable, of the structure and its property or the Design Control Overlay District pursuant to the general and specific criteria.
- C. In determining whether to grant a COA, the Heritage Commission shall conduct a public meeting on the project at which the Heritage Commission may solicit input from qualified City staff or consultants to the City and the applicant may present evidence to support its application.
- D. In determining whether to grant a COA, the Heritage Commission shall consider the evidence presented in conjunction with the criteria for granting a COA under 1109.07 below and shall take any of the following actions:
- (1) Approve the COA;
 - (2) Approve the COA with modifications to the proposed work;
 - (3) Deny the COA; or
 - (4) With the consent of the applicant, continue the review of the application to a future meeting date.
- E. Where the Heritage Commission elects to deny a COA, the Heritage Commission shall state its findings of fact and the reason(s) for the denial based upon the applicable criteria established for review.
- F. The Summit County Department of Building Standards shall not issue a Building Permit for any structure until the required COA has been approved by the Heritage Commission.
- G. The Heritage Commission shall take action on any application for a COA within forty-five (45) days of such item's first appearance on its agenda unless a time extension is mutually agreed to by the applicant and the Heritage Commission.

- H. A COA shall be valid for twelve (12) months and shall automatically expire if, for any reason, the approved work has not commenced within that period. All approved work must be completed within eighteen (18) months of the issuance of any certificate of appropriateness; provided however, one extension may be granted by the Heritage Commission for up to twelve (12) months. An application for extension must be made in writing to the Heritage Commission prior to expiration of the initial COA.

SECTION 1109.07 CRITERIA FOR COA

- A. The Heritage Commission shall review any application for a COA to determine the consistency of the proposed work with the following criteria:
- (1) The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces and spatial relationships that characterize a property will be avoided.
 - (2) Each property will be recognized as a physical record of its time, place and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.
 - (3) Changes to a property that have acquired historic significance in their own right will be retained and preserved.
 - (4) Distinctive materials, features, finishes and construction techniques or examples of craftsmanship that characterize a property will be preserved.
 - (5) Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.
 - (6) New additions, exterior alterations or related new construction will not destroy historic materials, features and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.
 - (7) New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.
 - (8) The conformity of the proposed work with any design guidelines adopted by the Historic Commission from time to time.
 - (9) Other items that the Heritage Commission believes necessary for the review of alterations to structures on the RHS.
- B. The Heritage Commission together with the City Administration may promulgate and approve the Design Control Overlay District Review Guidebook, and other similar materials, which are intended to provide supplemental interpretation of the provisions of this chapter and chapter 1103 and to further guide the evaluation of the appropriateness of those projects before the Heritage Commission. If a conflict exists between the Design Control Overlay District Review Guidebook and the Zoning Ordinance, the Zoning Ordinance shall govern.

SECTION 1109.08 MAINTENANCE

- A. Nothing in this chapter shall be construed to prevent the ordinary maintenance or repair of any RHS or property in accordance with this Zoning Code provided such work does not otherwise require a COA in accordance with this Chapter. Nor shall anything in this Chapter be construed to prevent any repair of structural deficiency, which in the view of the Zoning Administrator is required for the public safety because of an unsafe, insecure or dangerous condition.

- B. Neither the owner of nor the person in charge of any RHS or property shall permit such structure or property to fall into a state of disrepair which may result in the deterioration of any exterior appurtenance or architectural feature so as to produce or tend to produce, in the judgment of the Heritage Commission, a detrimental effect upon the life and character of the structure or property in question, including but not limited to:
 - (1) The deterioration of exterior walls or other vertical supports;
 - (2) The deterioration of roofs or other horizontal members;
 - (3) The deterioration of exterior chimneys;
 - (4) The deterioration or crumbling of exterior plaster or mortar;
 - (5) The ineffective waterproofing of exterior walls, roofs and foundations, including broken windows or doors;
 - (6) The deterioration of any feature, so as to create or permit the creation of any hazardous or unsafe condition or conditions.

SECTION 1109.09 APPEALS

- A. Any applicant aggrieved by any decision of the Heritage Commission may appeal the decision to the Board of Zoning Appeals unless otherwise specified in this Code. Such appeal shall be taken in accordance with the procedures set forth in Chapter 1102. A three-fourths (3/4) vote of the members of the Board of Zoning Appeals is required to overrule a decision of the Heritage Commission. In the event that the Board of Zoning Appeals does not affirm the decision of the Heritage Commission, the Board shall state its findings of fact and reasons in the minutes of its meeting and shall forward a copy of such minutes to the Heritage Commission.

SECTION 1109.10 EMERGENCY ORDERS

- A. Notwithstanding other provisions of this Chapter, whenever the Zoning Administrator finds that an emergency exists in any structure subject to the regulations herein, which requires immediate action to protect the public's health and safety or that of the occupants thereof, the Zoning Administrator may issue an order certifying that such conditions exist and requiring actions as are necessary to meet such emergency. Subsequent to the correction of an emergency, the owner(s) of an affected property shall apply for and obtain, as applicable, a COA and shall restore such property in conformance with the applicable requirements and procedures.

SECTION 1109.11 PENALTY

- A. In addition to the prohibitions set forth in Section 1102.19 B (Violations). and related penalties in 1102.19 M. (Remedies) and 1102.19 N.(Penalties), the following shall also constitute a violation of this Chapter:

- (1) Whoever constructs, reconstructs, or alters any exterior architectural feature or demolishes a substantial part or all of any structure without a Certificate of Appropriateness shall be fined not more than one hundred dollars (\$100.00). 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 reconstructions shall be in addition to any criminal penalty and not in lieu thereof.
- (2) Whoever receives a Certificate of Appropriateness and constructs, reconstructs, or alters any exterior architectural feature other than in accordance with the requirements of the certificate, shall be fined not more than one hundred dollars (\$100.00). 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. Changes and additions shall be in addition to any criminal penalty and not in lieu thereof. Notice of Violation shall be given as provided in Section 1102.

