

TEMPORARY ORDINANCE NO. 18-17

PERMANENT ORDINANCE NO. _____

AN ORDINANCE TO REPEAL AND REPLACE LANCASTER CODIFIED ORDINANCE PART THIRTEEN – BUILDING CODE, CHAPTER 1327 – HISTORIC PRESERVATION/DESIGN REVIEW, OF THE CODIFIED ORDINANCES OF THE CITY OF LANCASTER, AND TO DECLARE AN EMERGENCY

WHEREAS, the City of Lancaster Historic Commission has recommended changes to Lancaster Codified Ordinance Chapter 1327 – Historic Preservation/Design Review for the purpose of creating designated landmarks and codifying the certificate of appropriateness expiration and extension process; and

WHEREAS, doing so will allow more historical properties to benefit from the waiver of fire capacity fees when a fire suppression system is installed and provide definitive timelines for work permitted under a certificate of appropriateness; and

WHEREAS, this Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the City, and for the further reason that this Ordinance is required to be immediately effective in order to promote the development of designated properties; and

WHEREAS, the City shall pass an ordinance to amend the building code;

NOW THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LANCASTER, STATE OF OHIO:

SECTION 1. That Part Thirteen – Building Code, Chapter 1327 – Historic Preservation/Design Review, be replaced pursuant to Exhibit “A” attached hereto.

SECTION 2. That existing Part Thirteen – Building Code, Chapter 1327 – Historic Preservation/Design Review, is repealed in its entirety.

SECTION 3. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the City, and for the further reason that this Ordinance is required to be immediately effective in order to promote the development of designated properties by allowing them to benefit from the fire capacity fee waiver.

SECTION 4. It is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council, and that all such deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Passed: _____ after _____ reading. Vote: Yeas _____ Nays _____

Approved: _____

President of Council

Clerk: _____

Mayor

Offered by: _____

Second by: _____

Requested by Law Committee

I, Teresa Lee Sandy, Clerk of Council do hereby certify that on _____, 2017 and _____, 2017 the Lancaster Eagle Gazette published the summary of this ordinance in accordance with Ohio Revised Code 731.24.

Clerk of Council

CHAPTER 1327
Historic Preservation/Design Review

- 1327.01** Purposes.
- 1327.02** Definitions.
- 1327.03** Establishment of design review districts, listed properties, and **designated landmarks.**
- 1327.04** Establishment of Historic Lancaster Commission.
- 1327.05** Powers and duties of Historic Lancaster Commission.
- 1327.06** Organization of Historic Lancaster Commission.
- 1327.07** Guidelines required.
- 1327.08** Certificate of appropriateness required.
- 1327.09** Procedure for certificate of appropriateness.
- 1327.10** Criteria for evaluation of application for certificate of appropriateness.
- 1327.11** Issuance of certificate of appropriateness.
- 1327.12** Procedures following denial of certificate of appropriateness.
- 1327.13** Criteria to determine substantial economic hardship.
- 1327.14** Criteria to determine unusual and compelling circumstances.
- 1327.15** Demolition.
- 1327.16** Maintenance.
- 1327.17** Failure to maintain.
- 1327.18** Right to appeal.
- 1327.19** Severability.
- 1327.20** Civil remedies.
- 1327.21** Stop work order.
- 1327.22** Enforcement.
- 1327.23** Design guidelines.
- 1327.24** **Certificate of appropriateness expiration and extension.**
- 1327.99** Criminal violation.

CROSS REFERENCES

Commission rules - see ADM. Ch. **143**

1327.01 PURPOSES.

The City of Lancaster contains areas with unique and valuable historic, architectural and/or cultural resources. The preservation of these resources is directly linked to the cultural, social and economic well-being of the community. The purposes of this Chapter are:

- (a) To protect and preserve these resources and prevent intrusions and alterations within designated Districts or Listed Properties which would be incompatible with their established character, and
- (b) To encourage infill development and property improvement that respects the context of the existing built environment and reduces conflicts between new construction and existing development, and
- (c) To stabilize and enhance property values and economic value of identified resources, and
- (d) To promote economically viable reuse of historic buildings, structures, sites and objects within Lancaster's historic core, and
- (e) To promote and enhance revitalization of downtown Lancaster.



The standards of this Chapter are requirements which must be met in addition to the established requirements and standards of the specific zoning district or other lawfully adopted regulations. (Ord. 42-08. Passed 10-20-08.)

1327.02 DEFINITIONS.

As used in this Chapter, the following words shall be defined as follows:

(a) "Alteration" means any action to change, modify, reconstruct, remove or demolish any exterior feature of an existing building, structure, site or object within any District or Listed Property. For the purpose of this item, ordinary maintenance to correct any deterioration, decay or damage to a structure or premises and to restore the structure as nearly as practicable, is excluded from the definition of "alteration", provided such work does not involve a change in material, design, texture or exterior appearance, per section 1327.16.

(b) "Architectural Change" means the exterior construction, alteration, demolition or removal of any building, structure, site or object subject to the provisions of this Chapter, but shall not include the installation, maintenance or removal of plant material.

(c) "Architectural Character" means the style, design, and general arrangement of the exterior of a building, structure site or object, including the type of lighting fixtures, signs and other appurtenant fixtures. In the case of an outdoor advertising sign, "exterior features" means the style, material, size and location of the sign.

(d) "Applicant" means any person, persons, association, organization, partnership, unit of government, public body, corporation or other entity, or a representative of one of the above, who applies for a Certificate of Appropriateness in order to undertake an architectural change within the District or Listed Property.

(e) "Commission" means the "Historic Lancaster Commission." This body shall serve as the Design Review Board for the City of Lancaster as established by this chapter.

(f) "Building" means a resource created principally to shelter any form of human activity, such as a house. The term "building" shall be construed as if followed by the words "or part thereof."

(g) "Certificate of Appropriateness" means a certificate authorizing any architectural change within any designated District or Listed Property.

(h) "City" means the City of Lancaster. Ohio

(i) "Contributing property" means a building, structure, site or object that, as determined by the Commission, adds to the historic or architectural value of a designated District or Listed Property because it was present during the period of historic significance and/or it preserves such historic integrity that it yields important information about such District or Listed Property.

(j) "Demolition" means the razing or removing of all or a substantial portion of a building, structure, or appurtenance from a Listed Property or District.

(jj) "Designated Landmark" means any improvement to real property that has historic significance and has been designated according to the provisions of this Chapter.

(k) "District" means a designated Design Review District.

(l) "Guidelines" means the document that is adopted by the Historic Lancaster Commission and City Council that details the architectural characteristics for any Design Review District or Listed Property therein, and that provides design guidance for appropriate maintenance, repair, construction or alteration pursuant to the provisions of this Chapter. Also commonly known as "design guidelines."

(ll) "Historic significance" means the attributes of a designated landmark or historic district that possess integrity of design, location, setting, materials, workmanship and

association and that are associated with events that have made a significant contribution to the broad patterns of the City's history, or that are associated with the lives of persons significant in the City's past, or that embody the distinctive characteristics of a type, period or method of construction, or that represent a significant and distinguishable entity whose components may lack individual distinction, or that have yielded or are likely to yield information important in prehistory or history. Cemeteries, birthplaces or graves of historic figures, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, reconstructed historic buildings, properties primarily commemorative in nature, and properties that have achieved significance within the past fifty years, shall not be considered to be of historic significance, unless they are integral parts of the districts that meet the above criteria or if they fall within the following categories:

- (1) A religious property which is primarily significant for its architecture or secular history;
- (2) A relocated building which has a high degree of architectural significance or which is the primary structure associated with an individual or an event;
- (3) The birthplace or gravesite of an historical figure, if no other built feature survives which is directly associated with his or her productive life;
- (4) A cemetery primarily important because of its age, distinctive design features or association with the graves or persons of transcendent importance, or which is associated with historic events;
- (5) A reconstructed building when accurately represented in suitable environment as part of a restoration master plan and when no other building with the same associated has survived;
- (6) The property primarily commemorative in intent if design, age, tradition or symbolic value have given it significance; or
- (7) A property achieving significance within the past fifty years if it is of exceptional importance or is unique to the City.

(m) "Listed Property" means a building, structure, site or object designated according to the provisions of this Chapter.

(n) "Noncontributing property" means a building structure, site or object within a designated District or Listed Property that, in the determination of the Commission, does not meet the criteria cited in 1327.02 (i) above.

(o) "Object" means a construction primarily artistic in nature or relatively small in scale, such as a monument, work of art, or milepost.

(p) "Ordinary maintenance or repair" means any maintenance or repair to any existing building, site, structure or object that is for the limited purpose of correcting decay, deterioration or damage to an architectural feature and that does not involve a change in material, design, texture or exterior appearance, per Section 1327.16.

(q) "Preserve" or "preservation" means the process (including maintenance) of treating an existing building, structure, site or object to arrest or slow future deterioration, stabilize it and provide structural safety, without changing or adversely affecting its character or appearance, as determined by the Commission.

(r) "Site" means any significant historical, archaeological, or architectural property without a principal structure such as the location of a prehistoric or historic activity, or a significant event. A

site may also include a property of significant landscape design. This definition of “site” shall not be construed to limit the term “site plan” or “site improvement.”

(s) “Structure” means a functional construction made for purposes other than creating shelter. It may include a work of engineering affixed to the land, the hardscape portion of landscaping, or any combination of materials to form a construction that is safe and stable, including, but not limited to stadia, tents, reviewing stands, platforms, staging, observation towers, radio towers and graphics. The term “structure” shall be construed as if followed by the words “or part thereof.” The term “structure” does not include plants, trees, shrubs or others plantings that may be a part of landscaping.

(t) “Owner” shall mean the owner of record, and the term shall include the plural as well as the singular. (Ord. 42-08. Passed 10-20-08.)

1327.03 ESTABLISHMENT OF DESIGN REVIEW DISTRICTS, OR LISTED PROPERTIES AND DESIGNATED LANDMARKS.

Except as otherwise indicated in this Chapter, all property located in the following designated Design Review District or any individually Listed Property shall be subject to the design review criteria and standards of this Chapter and additional guidelines as may be applicable in each District.

(a) The following Design Review District is hereby established:

The Historic Lancaster District:

“Beginning at the intersection of Pearl Avenue and Walnut Street; go north the entire length of Pearl Street on the east to the alley between Mulberry Street and King Street; thence west to High Street; thence north to the alley between King Street and Fifth Avenue; thence west along such alley, and continuing west along the alley between Union Street and Fifth Avenue to Memorial Drive; thence south to Chestnut Street; thence east on Chestnut Street to Columbus Street; thence south on Columbus Street to Walnut Street; thence east to Pearl Street, the point of beginning.”

(b) Additional Design Review Districts may be established or existing Districts may be modified by City Council under separate Ordinance. The designation or modification of such Districts shall be made by the Council after obtaining a recommendation from the Commission, and holding a public hearing. Prior to that hearing, notification shall be given by first-class mail to all property owners within the proposed District as appearing on the current Fairfield County tax rolls. City Council may expand any Design Review District upon receipt of a petition by any adjacent property owner requesting inclusion in such District, and recommendation for same by the Commission. Such expansion by petition of the affected property owners may occur without the public hearing as referenced above.

(c) Individual properties outside of the boundaries of established Design Review Districts may also be designated as Listed Properties. The procedure for listing individual properties is as follows:

(1) The Commission shall notify the owner of any proposal to list the property and receive consent back from owner in writing. Upon receipt of such consent, the property shall be listed upon favorable recommendation by the Commission and upon approval by Council after a public hearing.

(d) Individual properties outside of the boundaries of established Design Review Districts may also be designated as a Designated Landmark. The process for designating individual properties is as follows:

(1) The Commission shall notify the owner of any proposal to designate the property and receive consent back from the owner in writing. Upon receipt of such consent, the property shall be designated upon favorable recommendation by the Commission and upon approval by Council.

(e) Criteria for Designation. In considering the designation of any building, structure, site or object as a District, Listed Property or **Designated Landmark**, the Commission and Council shall apply the following criteria, in addition to any other available information:

(1) Its character, interest or value as part of the heritage of the City, the State of Ohio or the United States.

(2) Its location as a site of a significant historic event.

(3) Its identification with a person or persons who contributed significantly to the historic development of the City.

(4) Its exemplification of the heritage of the City.

(5) Its portrayal of the environment or a group of people in an era of history characterized by a distinctive architectural style or building type.

(6) Its embodiment of a distinguishing historical characteristic of an architectural type or style.

(7) Its identification as the work of an architect or master builder whose individual work has influenced the development of the City or State.

(8) Its embodiment of elements of architectural design, detail, materials or craftsmanship which represent a significant architectural innovation.

(9) Its unique location or physical characteristic representing an established and familiar visual feature of a neighborhood, community or the City.

(10) Such other individual characteristics as shall be relevant to its designation as a District, Listed Property or **Designated Landmark**.

(Ord. 42-08. Passed 10-20-08.)

1327.04 ESTABLISHMENT OF HISTORIC LANCASTER COMMISSION.

There is hereby established the Historic Lancaster Commission in accordance with this Chapter.

(a) The Historic Lancaster Commission shall consist of the required number of members as appointed by the Mayor with the approval of City Council, pursuant to the requirements of Sections **1327.04** (d) below. Members shall serve without compensation. The Mayor shall have the authority to appoint alternate members to the Commission, as may be determined appropriate.

(b) Appointed members shall be subject to removal for cause by the Mayor. Vacancies for the remainder of an unexpired term shall be filled by the Mayor, within sixty (60) days from the date of vacancy. All members shall be residents of the City.

(c) All members shall be appointed to three (3) year terms, and the initial term appointments provided for in this ordinance shall be staggered according to the following schedule:

(1) Two (2) members shall each be appointed to serve for an initial full term of three (3) years.

(2) The third and fourth members shall each be appointed for a term of two (2) years.

(3) The fifth member shall each be appointed for a term on one (1) year.

All terms shall begin on January 1 of the applicable year.

(d) Membership.

(1) The Commission shall consist of five (5) voting members. One (1) member of the Commission shall be a member of City Council or a designee of City Council. Four (4) members shall be appointed by the Mayor with City Council approval. Three (3) members shall constitute a quorum, and a concurring majority vote by members present shall be necessary for official action.

(2) In appointing members, the Mayor shall make good faith effort to appoint persons with training in the fields of architecture, design, historic preservation, planning or related disciplines such as construction, commercial or mixed use development, or real estate. In addition, appointees should possess a demonstrated personal and/or professional interest, experience and knowledge in the preservation of historic structures.

(3) The Mayor shall solicit a list of potential nominees for membership on the Commission from organizations such as the Fairfield Heritage Association, Lancaster Special Improvement District, and Main Street Lancaster. Such list shall document the qualifications of potential nominees and shall be updated/revised on an annual basis. The Mayor shall review and consider such recommendations in appointing new members to the Commission.

(Ord. 42-08. Passed 10-20-08.)

1327.05 POWERS AND DUTIES OF HISTORIC LANCASTER COMMISSION.

The Historic Lancaster Commission established in Section **1327.04** above is hereby vested with the following powers and authority.

(a) Hear, evaluate and take action on applications for Certificates of Appropriateness, as authorized by Section **1327.08** of this Chapter.

(b) Maintain a record of the historic, architectural and cultural resources within the City, including designated Districts, Listed Properties and **Designated Landmarks**. The Commission shall also maintain a list of contributing and noncontributing properties in designated Districts and Listed Properties.

(c) Recommend to City Council the designation of Listed Properties, **Designated Landmarks**, and Districts or modifications to existing Districts.

(d) Propose and recommend to City Council the establishment of design guidelines for Districts, Listed Properties and **Designated Landmarks** along with amendments as may be subsequently needed. Guidelines shall be adopted by both the Council and the Commission.

(e) Make recommendations to City Council regarding potential resources and/or actions which have or may have significant impacts on historic, architectural and/or cultural resources within the City.

(f) Act upon application for a Certificate of Appropriateness as provided in City Council Resolution 25-05 for tax exemption, within the respective District.

(g) Provide that a designated city official, who is responsible for managing the applications that are presented to the Commission, may administratively approve certain application requests, but only if those application requests are specifically identified by the Commission in its guidelines or by resolution of the Commission. A Certificate of Appropriateness shall be issued to the applicant upon such administrative approval. This designated city official or the applicant shall have the option of referring any application to the Commission for its full consideration.

(Ord. 42-08. Passed 10-20-08.)

1327.06 ORGANIZATION OF HISTORIC LANCASTER COMMISSION.

(a) The Historic Lancaster Commission shall establish its own procedural rules and/or guidelines. The Commission shall set a regular meeting time to conduct business as may be required, provided that the Commission shall meet not less than once every calendar quarter. Meeting times, dates and locations shall be posted pursuant to Codified Ordinance **109.02**(f) not less than one (1) week in advance. Notice of meeting times, dates and locations shall be sent at

least one (1) week in advance of the meeting by first class mail to any owner whose real property is a matter before such Commission.

(b) The Historic Lancaster Commission shall select a Chairman, Vice-Chairman, and Secretary. The Chairman shall conduct the meetings of the Commission, determine order of such meetings, and be generally responsible for the recording of such meetings. The Vice-Chairman shall perform the duties of the Chairman in event of the Chairman's absence. The Secretary shall be responsible for maintaining adequate minutes and records of Commission proceedings, as well as other administrative duties. The position of Secretary may be delegated to a non-voting non-member, if such arrangement is approved by the Commission.

(Ord. 42-08. Passed 10-20-08.)

1327.07 GUIDELINES REQUIRED.

The Commission shall prepare or amend guidelines for Districts and Listed Properties consistent with the standards of this Chapter. The Commission shall give notice to the public of the proposed or amended guidelines, shall seek comment on the proposed guidelines at a public hearing, and may consider such public comments in the final preparation of the guidelines. Final guidelines shall be adopted by the Commission and City Council.

(Ord. 42-08. Passed 10-20-08.)

1327.08 CERTIFICATE OF APPROPRIATENESS REQUIRED.

No architectural change as defined shall be made to any building, structure, site or object within any District or Listed Property until a Certificate of Appropriateness has been properly applied for and issued by the Commission. No zoning permit, building permit, sign permit, or Zoning Clearance Permit shall be issued by the Building Department for any construction, reconstruction, alteration or demolition of any building, structure, site or object now or hereafter in any District or Listed Property subject to the process as specified in this Chapter, unless a Certificate of Appropriateness has been authorized by the Commission.

For the purposes of this Ordinance, a Certificate of Appropriateness shall not be required for the following activities:

- (a) Maintenance and/or repair activities pursuant to Section [1327.16](#) below.
- (b) Interior work on any building or structure.
- (c) Installation of private radio or television reception antennae, however the physical size and configuration of said objects as well as the location and placement of said objects on a structure or site shall be subject to review and approval.
- (d) General maintenance and/or planting of organic material.
- (e) Temporary work required for emergency stabilization of a building, structure, site or object due to damage from natural events or an act of God.

(Ord. 42-08. Passed 10-20-08.)

1327.09 PROCEDURE FOR CERTIFICATE OF APPROPRIATENESS.

(a) The application for a Certificate of Appropriateness shall be made on such forms as prescribed by the Commission, along with such plans, drawings, specifications and other materials as may be needed by the Commission to make a determination. At a minimum, such information shall include the following:

- (1) A site or sketch plan showing building outlines, dimensions and landscaping.
- (2) Photographs of the building, site, structure or object as appropriate.

(3) A complete description of the proposed architectural change, including drawings or photographs to illustrate the proposal as may be needed.

(4) An explanation by the applicant as to how the proposed activity is consistent with the purposes and guidelines of this Chapter.

(b) Applications for a Certificate of Appropriateness shall be filed with the Secretary of the Building Department at least ten (10) days prior to the meeting of the Historic Lancaster Commission.

(c) The Commission shall determine whether the proposed architectural change will be appropriate to the preservation of the historic, environmental, or architectural character of the District or Listed Property, pursuant to the criteria specified in Section **1327.10**. In making such determination, the Commission shall consider whether the proposed architectural change impacts a contributing or noncontributing property.

(d) In determining the appropriateness of a specific architectural change, the Commission may conduct a separate public meeting on the project and/or solicit input from consultants to the City.

(e) If no action is taken by the Commission within ninety (90) days from the date of submittal of the application, the Certificate of Appropriateness shall be issued as a matter of law. The tabling of an application due to incomplete information provided by the applicant or at the request of the applicant shall not be considered as "no action" for the purposes of this Section.

(f) The Certificate of Appropriateness may include conditions limiting the scope of the certificate. A violation of these conditions shall be a violation of this Section.

(Ord. 42-08. Passed 10-20-08.)

1327.10 CRITERIA FOR EVALUATION OF APPLICATION FOR CERTIFICATE OF APPROPRIATENESS.

In considering the appropriateness of any proposed architectural change, the Commission shall consider:

(a) Its adopted guidelines, and

(b) The Secretary of the Interior's Standards (Department of Interior regulations, 36 CFR 67) that pertain to historic properties of all materials, construction types, sizes, and occupancy. The Secretary of the Interior's Standards for Rehabilitation are ten basic principles created to help preserve the distinctive character of a historic property and its site, while allowing for reasonable change to meet new needs. The Standards also encompass related landscape features and the property's site and environment as well as attached, adjacent, or related new construction. The Standards are applied to projects in a reasonable manner, taking into consideration economic and technical feasibility.

(1) A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.

(2) The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.

(3) Each property shall 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 architectural elements from other buildings, shall not be undertaken.

(4) Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.

(5) Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.

(6) Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.

(7) Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

(8) Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

(9) New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

(10) New additions and adjacent or related new construction shall 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.

(c) Additional Design Criteria. In addition to the criteria of [1327.10](#) (a) and (b) above, the Commission shall consider the following:

(1) The consistency of the proposed work with Section [1327.10](#) (a) and (b), above, and its adopted design guidelines;

(2) The degree to which the proposed work would alter or destroy all or part of a contributing property in a District or Listed Property;

(3) The degree to which the proposed work would isolate a contributing property in a District or a Listed Property from its surroundings, or introduce visual elements that are inconsistent with the character of the property and its setting, or would adversely impact the physical integrity of the District or Listed Property; and

(4) The degree to which the proposed work is compatible with the significant characteristics of the District or Listed Property.

(Ord. 42-08. Passed 10-20-08.)

1327.11 ISSUANCE OF CERTIFICATE OF APPROPRIATENESS.

After a public hearing on the application pursuant to the provisions of Section [1327.09](#), the Commission shall issue a Certificate of Appropriateness to the applicant if one of the following conditions is found to exist:

(a) The architectural change is determined to be appropriate after a consideration of all provisions of this section and the adopted guidelines of the Commission; or

(b) An unusual and compelling circumstance as defined in Section [1327.14](#) has been found to exist and such Certificate of Appropriateness may be issued without substantial detriment to the public welfare and without substantial derogation from the intent and purpose of this Chapter.

(c) Failure to issue the Certificate of Appropriateness will result in a substantial economic hardship to the applicant as defined in Section [1327.13](#), and such Certificate of Appropriateness may be issued without substantial detriment to the public welfare and without substantial derogation from the intent and purpose of this Chapter.

(Ord. 42-08. Passed 10-20-08.)

1327.12 PROCEDURES FOLLOWING DENIAL OF CERTIFICATE OF APPROPRIATENESS.

(a) If the Commission determines that a proposed architectural change is inappropriate, the Commission may deny a Certificate of Appropriateness. Within ten (10) days after its decision, the Commission shall issue a written decision setting forth the reasons for denial and send a copy of such decision to the applicant.

(b) Within ten (10) days after receipt of the denial, the applicant may apply for a rehearing, apply for mediation or appeal the decision to the Board of Zoning Appeals in accordance with the provisions of this Chapter.

(1) Rehearing. A rehearing on the application shall only be held to consider any unusual and compelling circumstances and/or substantial economic hardship that was unaddressed in the original application or hearing. Within forty-five (45) days of the Commission's receipt of a request for a rehearing, it shall hold a public hearing at which to reconsider the applicant's evidence in response to its decision. Clear and convincing evidence shall be required for the Commission to find unusual and compelling circumstances and/or substantial economic hardship. New proposals or changes to the application shall not be subject to rehearing, but shall be presented in the form of a new application.

(2) Mediation. Mediation may occur by mutual agreement between an applicant and the Commission in an attempt to find a mutual resolution to the applicant's denial. Mediation shall only be held pursuant the voluntary agreement of both the applicant and the Commission. Within fourteen (14) days after receipt of a request for mediation, a mediator shall be appointed by the joint agreement of the applicant and the Commission. Costs for the mediator, if any, shall be divided equally and paid by the applicant and the City. Mediation towards resolution may occur during the next forty-five (45) days after selection of the mediator. As a part of mediation, the Commission and the applicant shall attempt in good faith to develop an alternative plan for approval that is appropriate under the applicable standards and criteria set forth in this Chapter. New information may be considered and application revisions can be made by the applicant. If the matter is mutually resolved in the mediation to satisfaction of both parties, a Certificate of Appropriateness containing the terms of the agreement shall be issued at the next regularly scheduled Commission meeting. If the matter is not successfully resolved, then the applicant may request a rehearing under the standards of Section **1327.12(b)(1)** or may appeal to the Board of Zoning Appeals.

(3) Appeal. All appeals of the Commission's denial of an application for a Certificate of Appropriateness for a proposed architectural change within a District or Listed Property shall state with particularity the grounds for the appeal. Grounds shall include:

A. The Commission's denial of the application for a Certificate of Appropriateness was arbitrary, capricious and unreasonable.

B. The Commission improperly denied the application for a Certificate of Appropriateness on the basis of applicant's claim of unusual and compelling circumstances.

C. The Commission improperly denied the application for a Certificate of Appropriateness on the basis of applicant's claim of substantial economic hardship.

(Ord. 42-08. Passed 10-20-08.)

1327.13 CRITERIA TO DETERMINE SUBSTANTIAL ECONOMIC HARDSHIP.

The following criteria shall be used by the Commission to determine whether the denial of a Certificate of Appropriateness creates a substantial economic hardship on the property owner:

- (a) Denial of a certificate will result in a substantial reduction in the economic value of the property;
 - (b) Denial of a certificate will result in a substantial economic burden on the property owner because the property owner cannot reasonably maintain the property in its current form;
 - (c) No reasonable alternative exists consistent with the architectural standards and guidelines for the property;
 - (d) The property owner has been unable to sell the property.
- (Ord. 42-08. Passed 10-20-08.)

1327.14 CRITERIA TO DETERMINE UNUSUAL AND COMPELLING CIRCUMSTANCES.

The following criteria shall be used by the Commission to determine whether the issuance of a Certificate of Appropriateness is justified by the existence of unusual and compelling circumstances:

- (a) The property has little or no historical or architectural significance.
 - (b) The property cannot be reasonably maintained in a manner consistent with the pertinent architectural standards and guidelines.
 - (c) No reasonable means of saving the property from deterioration, demolition or collapse other than applicant's proposal exists.
 - (d) If the property owner is a nonprofit organization, it is determined by the Commission that it is financially or physically infeasible for the nonprofit organization to be able to achieve its charitable purposes while conforming to the pertinent architectural standards and guidelines.
- (Ord. 42-08. Passed 10-20-08.)

1327.15 DEMOLITION.

No person shall demolish any building, structure, site or object or part thereof in a District or Listed Property until the person has received a Certificate of Appropriateness from the Commission. The application should be accompanied by a written statement containing the reasons the applicant is seeking to demolish the building, structure, site or object, along with a statement that such building, structure, site, or object or part thereof is not historically or architecturally significant or otherwise worthy of preservation. If the applicant is seeking to demolish an entire building, structure or major portion thereof, the applicant shall also submit definite plans for reuse of the site, evidence of commitment of funding for the proposal, a project timetable for both initiation and completion, as well as an evaluation of how the character and integrity of the District or Listed Property will be affected by such demolition.

In cases where an applicant applies for a Certificate of Appropriateness to demolish a building, structure, site or object or part thereof within a District or Listed Property, the Commission may issue a Certificate of Appropriateness when the applicant has submitted adequate documentation that at least one of the following conditions exist:

- (a) The building, structure, site or object or part thereof is noncontributing and/or contains no features of architectural and historic significance to the character of the District or Listed Property
- (b) There exists no reasonable economic use for the building, structure, site or object or part thereof as it exists or as it might be restored, and that there exists no feasible and prudent alternative to demolition.
- (c) Deterioration has progressed to the point where it is not economically feasible to restore the building, structure, site or object or part thereof.

The Commission shall be guided in its decision by balancing the historic, architectural, and cultural value of the building, structure, site or object or part thereof against the applicant's proof of any substantial economic hardship or unusual or compelling circumstances in retaining the building, structure, site or object or part thereof along with a full review and consideration of the proposed replacement project. (Ord. 42-08. Passed 10-20-08.)

1327.16 MAINTENANCE.

Nothing in this Chapter shall be construed to prevent ordinary maintenance or repair of any property within a District or any Listed Property, provided such work involves no change in material, design, texture, or exterior appearance; nor shall anything in this Chapter be construed to prevent any change, including the construction, reconstruction, alteration or demolition of any feature which by order of the Building Department, Fire Department, or Code Enforcement is required for the public safety because of an unsafe, insecure or dangerous condition. Such orders of code officials do not require a Certificate of Appropriateness but shall be considered temporary repairs. The property owner must seek a Certificate of Appropriateness within 30 days after emergency repairs are made pursuant to said orders for approval of permanent repairs. Permanent repairs shall be completed pursuant to the requirements of the Certificate of Appropriateness including the time period for completion of permanent repairs. (Ord. 42-08. Passed 10-20-08.)

1327.17 FAILURE TO MAINTAIN.

(a) No owner of a building, structure, site or object in a District or Listed Property shall fail to provide sufficient and reasonable care, maintenance and upkeep appropriate to ensure such property's perpetuation and to prevent its destruction by deterioration. This provision shall be in addition to all other applicable code provisions. By resolution the Commission shall present evidence of a violation hereof to the City Attorney who shall initiate appropriate action thereon.

(b) Orders of a code official to secure windows or doors by boarding them up due to an emergency or neglect shall be considered a temporary repair requiring the Property Owner to apply for a Certificate of Appropriateness for the permanent repair as described in Section [1327.16](#). (Ord. 42-08. Passed 10-20-08.)

1327.18 RIGHT TO APPEAL.

Any applicant aggrieved by any decision of the Commission may appeal the decision to the Board of Zoning Appeals. Such appeal shall be taken by the filing of a written statement, setting forth the grounds for the appeal, with the Building Department within thirty (30) days of the decision of the Commission. The Board of Zoning Appeals may affirm, reverse, remand, or modify such decision and shall state the reasons therefore. (Ord. 42-08. Passed 10-20-08.)

1327.19 SEVERABILITY.

If any provision of this Chapter, or the application thereof to any person or circumstance, is held invalid, the invalidity shall not affect the other provisions or applications of the provision or related provisions which can be given effect without the invalid provision or application, and to this end are severable. (Ord. 42-08. Passed 10-20-08.)

1327.20 CIVIL REMEDIES.

In the event any architectural change or failure to maintain occurs that is contrary to and in violation of any of the provisions of this Chapter, then, in addition to and not in lieu of other action as may be provided in this Chapter, the Mayor, his/her agent, or other proper authority of the City, may institute injunction, mandamus or other legal proceedings as may be necessary to abate such violation and/or to cause the correction of such illegal action.

The City Attorney may additionally request that the court impose the following civil penalties.

(a) Whoever constructs, reconstructs or alters any building, structure, site or object now or hereafter in a District or Listed Property in violation of this Chapter shall pay a civil penalty of not less than five hundred dollars (\$500.00) nor more than twenty-five thousand dollars (\$25,000.00).

(b) Whoever demolishes or removes a substantial part or all of any building, structure, site or object now or hereafter in a District or Listed Property in violation of this Chapter shall pay a civil penalty of not less than ten thousand dollars (\$10,000.00) nor more than twenty-five thousand dollars (\$25,000.00).

(c) Notwithstanding the civil penalty provision of this section, whoever causes, by willful action or willful neglect, any alteration of or demolition or failure to maintain of any property now or hereafter in a District or Listed Property in violation of this Chapter shall be required to restore or reconstruct same in accordance with the pertinent guidelines and standards, as approved by the Commission. (Ord. 42-08. Passed 10-20-08.)

1327.21 STOP WORK ORDER.

A Stop Work Order may be issued by the City Code Enforcement Official upon determination that a violation of this Chapter has occurred. Failure to cease work immediately shall be a violation of this section by the contractor and/or owner of property pursuant to civil and criminal penalties of Sections **1327.20** and **1327.99**.

(Ord. 42-08. Passed 10-20-08.)

1327.22 ENFORCEMENT.

Notice of Violation – a Notice of Violation may be issued pursuant to Lancaster Codified Ordinance **1303.12** or the City may directly file a criminal or civil violation.

(Ord. 42-08. Passed 10-20-08.)

1327.23 DESIGN GUIDELINES.

The Design Guidelines attached as Exhibit 1 to Ordinance 45-08 are hereby adopted in their entirety. (Ord. 45-08. Passed 10-20-08.)

1327.24 CERTIFICATE OF APPROPRIATENESS EXPIRATION AND EXTENSION.

(a) The approval of a Certificate of Appropriateness is invalid if construction, erection, alteration or other work upon a building or structure has not commenced within twelve months of the issuance.

(b) One extension shall be granted for an additional twelve-month period if requested by the owner at least ten days in advance of the expiration of the approval and upon payment of an extension fee.

(c) If in the course of construction work is delayed or suspended for more than six months, the approval of the Certificate of Appropriateness is invalid. Two extensions shall be granted for six months each if requested by the owner at least ten days in advance of the expiration of the approval and upon payment of a fee for each extension.

1327.99 CRIMINAL VIOLATION.

Whoever violates any provision of this Chapter shall be guilty of a third degree misdemeanor. When a partnership or a corporation violates any of the provisions of this Chapter, the members of the partnership responsible for such violation and/or the managing officers of the corporation responsible for such violation, or who directs same to be done, shall be punished in the same manner as the punishment described for herein. Each and every day that the violation of this Chapter continues shall constitute a separate and distinct violation.
(Ord. 42-08. Passed 10-20-08.)