

Arkansas Historic Districts Act

14-172-201. Title.

This subchapter shall be known and may be cited as the "Historic Districts Act."

History. Acts 1963, No. 484, § 1; A.S.A. 1947, § 19-5001.

14-172-202. Purpose.

The purpose of this subchapter is to promote the educational, cultural, economic, and general welfare of the public through the preservation and protection of buildings, sites, places, and districts of historic interest through the maintenance of such as landmarks in the history of architecture of the municipality, of the state, and of the nation, and through the development of appropriate settings for such buildings, places, and districts.

History. Acts 1963, No. 484, § 2; A.S.A. 1947, § 19-5002.

14-172-203. Applicability.

None of the provisions of this subchapter shall be in operation until and unless:

(1) There shall have been filed, with the clerk of the city, town, or county in which an historic district is contemplated, a petition signed by a majority in numbers of the property owners within the proposed historic district agreeing that their property shall be included in the historic district; or

(2) The boundaries of the proposed historic district are identical to and encompass the area of a National Register of Historic Places Historic District as certified by the United States Department of the Interior.

History. Acts 1963, No. 484, § 10; 1965, No. 170, § 2; 1979, No. 371, § 1; A.S.A. 1947, § 19-5010; Acts 1993, No. 194, § 1

14-172-204. Penalty.

(a) Any person who violates any of the provisions of this subchapter shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than ten dollars (\$10.00) nor more than five hundred dollars (\$500).

(b) Each day that a violation continues to exist shall constitute a separate offense.

History. Acts 1963, No. 484, § 11; A.S.A. 1947, § 19-5011.

14-172-205. Enforcement.

The chancery court having jurisdiction over the property in question shall have jurisdiction in equity to enforce the provisions of this subchapter in the rulings issued under it and may restrain by injunction violations of it.

History. Acts 1963, No. 484, § 10; 1965, No. 170, § 2; 1979, No. 371, § 1; A.S.A. 1947, § 19-5010.

14-172-206. Historic district commissions.

(a)(1) An historic district commission shall consist of no less than five (5) members nor more than nine (9) members.

(A) When the district is located within the boundaries of any city or incorporated town, the commission members shall:

- (i) Be appointed by the mayor, subject to confirmation by the governing body of the city;
- (ii) Be electors of the municipality; and
- (iii) Hold no salaried or elective municipal office.

(B) When a district is located outside the boundaries of any city or incorporated town, the commission members shall:

- (i) Be appointed by the county judge subject to confirmation by the quorum court;
- (ii) Be electors of the county; and
- (iii) Hold no salaried or elective county office.

(2)(A) The appointments to membership on the commission shall be so arranged that the term of at least one (1) member will expire each year, and their successors shall be appointed in a like manner for terms of three (3) years.

(B) Vacancies shall be filled in like manner for the unexpired term.

- (b) All members shall serve without compensation.
- (c) The commission shall elect a chairman and vice chairman annually from its own number.
- (d) The commission may adopt rules and regulations not inconsistent with the provisions of this subchapter and may, subject to appropriation, employ clerical and technical assistants or consultants and may accept money, gifts, or grants and use them for these purposes.

History. Acts 1963, No. 484, § 4; A.S.A. 1947, § 19-5004; Acts 1993, No. 194, § 2.

14-172-207. Establishment of historic districts.

By ordinance adopted by vote of the governing body thereof, any city, town, or county may establish historic districts and may make appropriations for the purpose of carrying out the provisions of this subchapter, subject to the following provisions:

(1)(A)(i) An historic district commission, established as provided in § 14-172-206, shall make an investigation and report on the historic significance of the buildings, structures, features, sites, or surroundings included in any such proposed historic district and shall transmit copies of its report to the Arkansas Historic Preservation Program, a division of the Department of Arkansas Heritage, to the planning commission of the municipality or county, if any, and in the absence of such commission, to the governing body of the municipality or county for its consideration and recommendation.

(ii) Each such body or individual shall give its recommendation to the historic district commission within sixty (60) days from the date of receipt of the report.

(B)(i) Recommendations shall be read in full at the public hearing to be held by the commission as specified in this section.

(ii) Failure to make recommendations within sixty (60) days after the date of receipt shall be taken as approval of the report of the commission.

(2)(A) The commission shall hold a public hearing on the establishment of a proposed historic district after giving notice of the hearing by publication in a newspaper of general circulation in the municipality or county once a week for three (3) consecutive weeks, the first such publication to be at least twenty (20) days prior to the public hearing.

(B) The notice shall include the time and place of the hearing, specify the purpose, and describe the boundaries of the proposed historic district.

(3)(A) The commission shall submit a final report with its recommendations and a draft of a proposed ordinance to the governing body of the municipality or county within sixty (60) days after the public hearing.

(B) The report shall contain the following:

(i) A complete description of the area or areas to be included in the historic district. Any single historic district may embrace noncontiguous lands;

(ii) A map showing the exact boundaries of the area to be included within the proposed district;

(iii) A proposed ordinance designed to implement the provisions of this subchapter; and

(iv) Such other matters as the commission may deem necessary and advisable.

(4) The governing body of the municipality or county, after reviewing the report of the commission, shall take one (1) of the following steps:

(A) Accept the report of the commission and enact an ordinance to carry out the provisions of this subchapter;

(B) Return the report to the commission, with such amendments and revisions thereto as it may deem advisable, for consideration by the commission and a further report to the governing body of the municipality or county within ninety (90) days of such return; or

(C) Reject the report of the commission, stating its reasons therefore, and discharge the commission.

(5) The commission established under the provisions of this subchapter, by following the procedures set out in subdivisions (2) to (4), inclusive, of this section, may, from time to time, suggest proposed amendments to any ordinance adopted under this section or suggest additional ordinances to be adopted under this section.

History. Acts 1963, No. 484, § 3; 1965, No. 170, § 1; 1977, No. 480, § 11; A.S.A. 1947, § 19-5003; Acts 1993, No. 194, § 3.

14-172-208. Certificate of appropriateness required - Definition.

(a)(1) 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. The municipality or county shall require a certificate of appropriateness to be issued by the commission prior to the issuance of a building permit or other permit granted for purposes of constructing or altering structures. A certificate of appropriateness shall be required whether or not a building permit is required.

(2) For purposes of this subchapter, "exterior architectural features" shall include the architectural style, general design, and general arrangement of the exterior of a structure, including the kind and texture of the building material and the type and style of all windows, doors, light fixtures, signs, and other appurtenant fixtures.

(b) The style, material, size, and location of outdoor advertising signs and bill posters within an historic district shall also be under the control of the commission.

History. Acts 1963, No. 484, § 5; A.S.A. 1947, § 19-5005; Acts 1993, No. 194, § 4.

14-172-209. Determination on application for certificate.

(a) Within a reasonable time, not to exceed thirty (30) days after the filing of an application for a certificate of appropriateness with the historic district commission, the commission shall determine the property to be materially affected by the application and immediately send by mail, postage prepaid, to the applicant and to the owners of all such properties to be materially affected notice of the hearing to be held by the commission on the application.

(b)(1) The commission may hold such public hearings as are necessary in considering any applications for certificates of appropriateness.

(2) The commission shall act on an application for certificate of appropriateness within a reasonable period of time.

(3) The commission shall determine whether the proposed construction, reconstruction, alteration, restoration, moving, or demolition of buildings, structures, or appurtenant fixtures involved will be appropriate to the preservation of the historic district for the purposes of this subchapter, or whether,

notwithstanding that it may be inappropriate, owing to conditions especially affecting the structure involved, but not affecting the historic district generally, failure to issue a certificate of appropriateness will involve a substantial hardship, financial or otherwise, to the applicant, and whether the certificate may be issued without substantial detriment to the public welfare and without substantial derogation from the intent and purpose of this subchapter.

(c)(1) If the commission determines that the proposed construction, reconstruction, alteration, restoration, moving, or demolition is appropriate or is not appropriate, owing to conditions as aforesaid, but that failure to issue a certificate of appropriateness would involve substantial detriment or derogation as aforesaid, or if the commission fails to make a determination within a reasonable time prescribed by ordinance, the commission shall forthwith approve the application and shall issue to the applicant a certificate of appropriateness.

(2) If the commission determines that a certificate of appropriateness should not be issued, it shall place upon its records the reasons for the determination and may include recommendations respecting the proposed construction, reconstruction, alteration, restoration, moving, or demolition.

(3) The commission shall immediately notify the applicant of the determination.

History. Acts 1963, No. 484, § 7; A.S.A. 1947, § 19-5007.

14-172-210. Certain changes not prohibited.

Nothing in this subchapter shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in the historic district which does not involve a change in design, material, color, or outer appearance thereof; nor to prevent the construction, reconstruction, alteration, restoration, or demolition of any such feature which the building inspector, or similar agent, shall certify is required for the public safety because of an unsafe or dangerous condition; nor to prevent the construction, reconstruction, alteration, restoration, or demolition of any such feature under a permit issued by a building inspector, or similar agent, prior to the effective date of the establishment of the historic district.

History. Acts 1963, No. 484, § 8; A.S.A. 1947, § 19-5008.

14-172-211. Interior architectural features.

In its deliberations under this subchapter, the historic district commission shall not consider interior arrangement or use and shall take no action under this subchapter except for the purpose of preventing the construction, reconstruction, alteration, restoration, moving, or demolition of buildings, structures, or appurtenant fixtures in the historic district obviously incongruous with the historic aspects of the district.

History. Acts 1963, No. 484, § 6; A.S.A. 1947, § 19-5006.

14-172-212. Appeal from decision.

(a)(1) Any applicant aggrieved by the determination of the historic district commission, within thirty (30) days after the making of the decision, may appeal to the chancery court of the county wherein the property is located.

(2) The court shall hear all pertinent evidence and shall annul the determination of the commission if it finds the reasons given for the determination to be unsupported by the evidence or to be insufficient in law and may make such other decree as justice and equity may require. (b) The remedy provided

by this section shall be exclusive; but the applicant shall have all rights of appeal as in other equity cases.

History. Acts 1963, No. 484, § 9; A.S.A. 1947, § 19-5009.