

TITLE 2

BOARDS AND COMMISSIONS, ETC.

CHAPTER

1. [REPEALED.]
2. [REPEALED.]
3. PARK COMMISSION.
4. HISTORICAL PRESERVATION COMMISSION ORDINANCE.

CHAPTER 1

[REPEALED]

This chapter was repealed by Ord. # 440, Aug. 1998.

CHAPTER 2

[REPEALED]

This chapter was repealed by Ord. #510, Sept. 2001.

CHAPTER 3

PARK COMMISSION

SECTION

2-301. Created.

2-302. Membership.

2-303. Vacancies.

2-304. Terms.

2-301. Created. There is hereby created a park commission for the City of Fairview, Tennessee, consisting of seven (7) voting members and one (1) non-voting advisory member for a total of eight (8) members of the park commission. Each member shall be nominated by the Mayor of the City of Fairview, Tennessee and approved by a majority vote of the Board of Commissioners of the City of Fairview, Tennessee. The mission of the City of Fairview, Tennessee Park Commission is to be an advisory (only) committee to the board of commissioners on any and all issues referred to the committee by the board of commissioners relative to all public parks of the City of Fairview, Tennessee. (as added by Ord. #601, Feb. 2005, and replaced by Ord. #774, Aug. 2011)

2-302. Membership. The park commission commissioners shall be composed of individuals as follows:

(1) Two (2) members from the Fairview, Tennessee, Board of Commissioners nominated by the Mayor of the City of Fairview, Tennessee and approved by a majority vote of the Board of Commissioners of the City of Fairview, Tennessee.

(2) One (1) member from the Fairview, Tennessee, Planning Commission. Said member is to be selected and approved by a majority vote of the members of the City of Fairview, Tennessee Planning Commission.

(3) One (1) member from the City of Fairview, Tennessee, Tree Board. Said member is to be selected and approved by a majority vote of the members of the City of Fairview, Tennessee Tree Board.

(4) One (1) member from the City of Fairview, Tennessee, Friends of Bowie Park. Said member is to be selected and approved by a majority vote of the members of the City of Fairview, Tennessee Friends of Bowie Park.

(5) One (1) member from the City of Fairview, Tennessee, Historical Association. Said member is to be selected and approved by a majority vote of the members of the City of Fairview, Tennessee Historical Association.

(6) One (1) member from the residents of the City of Fairview, Tennessee, at large. Said member is to be nominated by the Mayor of the City of Fairview, Tennessee and approved by a majority vote of the Board of Commissioners of the City of Fairview, Tennessee.

(7) One (1) non-voting member from the Senior Class of Fairview, Tennessee High School nominated by the Principal and Guidance Counselor of the City of Fairview, Tennessee High School and approved by a majority vote of the City of Fairview Board of Commissioners. Preference for this position will be given to a student with an interest in parks and recreation. While this member will be a non-voting position the member will be allowed to participate fully in all other functions of the park commission.

(8) The membership listed in (1) through (7) in this section shall meet as the parks commission at the call of the chairman but shall meet at least quarterly each year, keep accurate minutes of all meetings and submit a copy of the transcribed minutes to the city recorder within fifteen (15) working days of each and every meeting. (as added by Ord. #601, Feb. 2005, amended by Ord. #673, July 2007, and replaced by Ord. #774, Aug. 2011)

2-303. Vacancies. Upon the request of the Mayor of the City of Fairview, Tennessee, each board, commission or school shall submit the name or names(s) of their respective board, commission or school member(s) they recommend to fill the seats on the City of Fairview, Tennessee, Park Commission. The mayor may accept the nominations and or make nominations of his or her choosing. (as added by Ord. #601, Feb. 2005, and replaced by Ord. #774, Aug. 2011)

2-304. Terms. The terms of the Commissioners of the City of Fairview, Tennessee, Park Commission shall be as follows:

(1) Members of the City of Fairview, Tennessee, Board of Commissioners. Concurrent with their terms on the Board of Commissioners of the City of Fairview, Tennessee.

(2) Member of the City of Fairview, Tennessee, Planning Commission. Concurrent with their terms on the Planning Commission of the City of Fairview, Tennessee.

(3) Member of the City of Fairview, Tennessee, Tree Board. Concurrent with their terms on the Tree Board of the City of Fairview, Tennessee.

(4) Member of the City of Fairview, Tennessee, Friends of Bowie Park. Initial period of office one (1) year.

(5) Member of the City of Fairview, Tennessee, Historical Association. Initial period of office two (2) years.

(6) Member of the City of Fairview, Tennessee, residents at large. Initial period of office three (3) years.

(7) Member from the Senior Class of Fairview, Tennessee High School. Period of office shall be concurrent with member's senior class school session.

(8) Terms of office for members listed in (4) through (6) above shall be three (3) year terms after the initial terms. (as added by Ord. #601, Feb. 2005, amended by Ord. #659, March 2007, and replaced by Ord. #774, Aug. 2011)

CHAPTER 4

HISTORICAL PRESERVATION COMMISSION ORDINANCE

SECTION

- 2-401. Purpose and intent.
- 2-402. Definitions.
- 2-403. Establishment of historical districts.
- 2-404. Historic preservation commission; membership terms and administrative matters.
- 2-405. Amendments to historic district designations.
- 2-406. Application for certificates from the commission.
- 2-407. Meetings of the commission.
- 2-408. Process of appealing determinations of the commission.
- 2-409. Enforcement.
- 2-410. Limited coverage.
- 2-411. Amendments to ordinance.
- 2-412. Designation of historic districts.

2-401. Purpose and intent. It is hereby declared a matter of public policy that the protection, enhancement, preservation and use of historical resources or value is a public necessity and is required in the interest of education, prosperity, safety and welfare of all the citizens of the City of Fairview, Tennessee.

The purpose of this ordinance is to:

- (1) Protect, enhance and preserve cultural and historical resources, including those districts which represent or reflect elements of the city's cultural, social, economic, political or architectural history.
- (2) Safeguard the city's historical and cultural heritage by improving historical and cultural resources by creating historic districts.
- (3) Foster wider public awareness of and pride in accomplishments of the past.
- (4) Encourage private efforts of Fairview, Tennessee citizens in support of such purposes.
- (5) Promote the use of historic districts as a stimulus to local business and industry.
- (6) Enhance the city's image to residents, visitors and tourists and make the city a more attractive and desirable place in which to live and work. (as added by Ord. #643, Oct. 2006)

2-402. Definitions. In this ordinance, unless the context clearly requires otherwise:

- (1) "Commission" means the historic preservation commission created pursuant to this ordinance.

(2) "Historic district" is an area designated in accordance with § 2-403 that contains one or more parcels or lots of land, or one or more buildings or structures on one or more parcels or lots of land.

(3) "Altered" includes the words "rebuilt," "reconstructed," "restored," "removed" and "demolished" and the phrases "changed in exterior color" and "any alteration to exterior physical appearance or exterior architectural feature visible from a public way."

(4) "Building" means a combination of materials forming a shelter for persons, animals or property.

(5) "Constructed" includes the words "built," "erected," "installed," "enlarged" and "moved."

(6) "Exterior architectural feature" means such portion of the exterior of a building or structure as is open to view from a public street, public way, public park or public body of water, including but not limited to the architectural style and general arrangement and setting thereof, the kind, color and texture of exterior building materials, the color of paint or other materials applied to exterior surfaces and the type and style of windows, doors, lights, signs and other appurtenant exterior fixtures.

(7) "Person aggrieved" means the applicant, an owner of adjoining property, an owner of property within the same historic district as property within one hundred (100) feet of said property lines and any charitable corporation in which one of its purposes is the preservation of historic structures or districts.

(8) "Structure" means a combination of materials other than a building, including a sign, fence, wall, hitching post, terrace, walk or driveway. (as added by Ord. #643, Oct. 2006)

2-403. Establishment of historic districts. The City of Fairview, Tennessee may, by ordinance adopted by a majority vote of the board of commissioners, establish historic districts subject to the following provisions:

(1) Process. Prior to the establishment of any historic district in Fairview, Tennessee, an investigation and report on the historical and architectural significance of the buildings, structures or sites to be included in the proposed historic district or districts shall be made by a historic district study committee or by a historic district commission, as provided in this section. The buildings, structures or sites to be included in the proposed historic district may consist of one or more parcels or lots of land, or one or more buildings or structures on one or more parcels or lots of land.

The study committee or the commission shall transmit copies of the report to the planning commission, and to the Tennessee Historical Commission for their respective consideration and recommendations.

Not less than sixty (60) days after such a transmittal the study committee or commission shall hold a public hearing on the report after due notice given at least fourteen (14) days prior to the date thereof, which shall include a

written notice, given by certified mail, postage prepaid, return receipt requested, to the owners as they appear on the most recent real estate tax list of the Williamson County Tax Assessor or trustee of all properties to be included in such district or districts. The committee shall submit a final report with its recommendations, a map of the proposed district or districts and a draft of a proposed ordinance to the board of commissioners.

(2) Formation of historic district study committee. A historic district study committee may be established in Fairview, Tennessee by a majority vote of the board of commissioners for the purpose of making an investigation of the desirability of establishing a historic district or districts therein. The study committee shall consist of not less than three (3) nor more than seven (7) members appointed by the mayor, and confirmed by the board of commissioners. (as added by Ord. #643, Oct. 2006)

2-404. Historic preservation commission; membership terms and administrative matters. (1) Terms. The ordinance shall be administered by a historic preservation committee with the following terms, composition and administrative matters. The historic preservation commission shall consist of seven (7) members, appointed by the mayor and subject to confirmation by the board of commissioners. All of the members shall be residents of the City of Fairview, Tennessee. Each member shall serve for a term of three (3) years; except that the initial appointments shall be for two (2) members to serve a term of one (1) year, two (2) members to serve a term of two (2) years, and three (3) members to serve a term of three (3) years. Vacancies shall be filled in the same manner as the original appointment for the unexpired term. In case of the absence, inability to act or unwillingness to act because of self-interest on the part of a member of the commission, all actions taken will be decided by a majority vote of a quorum present and voting. Each member shall continue in office after expiration of his or her term until a successor is duly appointed and qualified.

(2) Composition. The commission membership shall be composed of the following: one (1) member, preferably a professional architect or historian, one licensed real estate broker, real estate agent, or licensed building contractor, one (1) member of the city planning commission chosen by the planning commission members, one (1) member of the board of commissioners and three (3) citizen members who, through education or experience, have demonstrated a commitment to historic preservation. If, within thirty (30) days after the submission of a written request for nominees to any of the above-named positions, no such nominations have been submitted, the mayor may make such an appointment, subject to approval by the board of commissioners, without nomination by any organization or entity. To the extent a person meets more than one of the foregoing specific membership requirements, then each such specific membership requirement so met shall be satisfied by such person's membership on the commission.

(3) Compensation. No member shall receive compensation for his or her service on the commission, but shall be reimbursed, subject to availability of appropriated funds, for his or her actual expenses reasonably and necessarily incurred in performance of his or her official duties.

(4) Conflict of interest. If any commission member or alternate is an employee of the City of Fairview, Tennessee or has directly, or indirectly a financial interest in any contract with the city, the conflict or possible conflict of interest shall be dealt with in accordance with the laws of the State of Tennessee in effect at the time the conflict or potential conflict arises.

(5) Officers. The historical commission shall elect before the end of its fourth regular meeting during the first year and every July thereafter, a chairman, vice-chairman, and a secretary. All officers, shall be elected from its own members. Whenever the secretary shall not attend a meeting of the commission, the commission shall elect a secretary pro-tempore who shall take the minutes of the meeting. The records of the commission shall set forth every determination made by the commission, the vote of every member participating in such determination and the absence or failure to vote of every other member.

(6) Expenses. The commission may suggest and forward to the board of commissioners for approval that the city enter into contracts to employ clerical and technical assistance of consultants and incur other expenses appropriate to the carrying on of its work. Any and all such contracts must be approved by the board of commissioners and issued in the name of and under the authority of the City of Fairview, Tennessee. The commission nor any commissioner shall have no separate authority to contract with any person or entity in the name of the Commission or the City of Fairview, Tennessee.

(7) Gifts. The Commission may, upon approval by the Board of Commissioners, accept money gifts and expended the same for the carrying on of its work. The commission may also administer on behalf of the city any properties or easements, restrictions or other interests in real property which the city may have or may accept as gifts or otherwise and which the city may designate the commission as the administrator thereof.

(8) Record keeping and rules. The commission shall keep a permanent record of its resolutions, transactions and determinations and of the vote of each member participating therein, and may adopt and amend such rules and regulations not inconsistent with the provisions of this ordinance and prescribe such forms as it shall deem desirable and necessary for the regulations of its affairs and the conduct of its business. The commission shall file a copy of any such rules and regulations with the city clerk. An annual report of the commission's activities shall be filed with the City Clerk of the City of Fairview, Tennessee for filing as a permanent record of the City of Fairview, Tennessee.

(9) Other powers. The commission shall have, in addition to the powers, authority and duties granted to it by this ordinance, such other powers, authority and duties as may be delegated or assigned to it from time to time by

vote of the Board of Commissioners of the City of Fairview, Tennessee. (as added by Ord. #643, Oct. 2006)

2-405. Amendments to historic district designations. (1)

Enlargements or reductions. A historic district may be enlarged or reduced or an additional historic district in the city created in the manner established under § 2-403, for creation of the initial district, except that in the case of the enlargement or reduction of an existing historic district the investigation, report and hearing shall be by the historic preservation commission having jurisdiction over such historic district instead of by a study committee.

(2) Additional districts. In the case of creation of an additional historical district the investigation, report and hearing shall be by the city historic preservation commission instead of by a study committee unless the commission recommends otherwise.

(3) Notice. If the district is to be reduced, written notice, as provided in § 2-403 for the creation of the initial district, shall be given to said owners of each property in the district.

(4) Filing requirements. No changes to the boundaries of a historic district shall become effective until a map(s) setting forth the changes to the boundaries of the historic district has been filed with the city clerk. (as added by Ord. #643, Oct. 2006)

2-406. Application for certificates from the commission.

(1) Considerations of commission. In passing upon matters before it the commission shall consider, among other things, the historic and architectural value and significance of the site, building or structure, the general design, arrangement, texture, material and color of the features involved, and the relation of such features to similar features of buildings and structures in the surrounding area. In the case of new construction or additions to existing buildings or structures, the commission shall consider the appropriateness of the size and shape of the building or structure both in relation to the land area upon which the building or structure is situated and to buildings and structures in the vicinity, and the commission may in appropriate cases recommend to the City of Fairview, Tennessee Planning Commission the imposition of dimensional and set back requirements in addition to those required by applicable ordinance or by-law. The commission shall not consider interior arrangements or the categories of exclusions specified in paragraph 3 of this section.

The commission may after public hearing set forth in such manner as it may determine the various designs of certain appurtenances, such as light fixtures, which will meet the requirements of a historic district and a roster of certain colors of paint and roofing materials which will meet the requirements of a historic district, but no such determination shall limit the right of an applicant to present other designs or colors to the commission for its approval.

The commission shall not make any recommendation or requirement except for the purpose of preventing developments incongruous to the historic aspects or the architectural characteristics of the surroundings and of the historic district.

(2) Submission requirements. Except for the exclusions noted in paragraph (3) no building or structure within a historic district shall be constructed or altered in any way that affects exterior architectural features unless the commission shall first have issued a certificate of appropriateness, a certificate of non-applicability or a certificate of hardship with respect to such construction or alteration to the original requestor and a copy sent to the Fairview, Tennessee Planning Commission.

Any person who desires to obtain a certificate shall file with the commission an application for a certificate of appropriateness, a certificate of non-applicability or a certificate of hardship, as the case may be, in such form as the commission may reasonably determine, together with such plans, elevations, specifications, material and other information, including in the case of demolition or removal a statement of the proposed condition and appearance of the property thereafter, as may be reasonably deemed necessary by the commission to enable it to make a determination on the application.

No building permit for construction of a building or structure or for alteration of an exterior architectural feature within a historic district and no demolition permit for demolition (full or partial) or removal of a building or structure within a historic district shall be issued by the City of Fairview, Tennessee Codes Department until the certificate required by this section has been issued by the commission.

(3) Exclusions. The authority of the commission shall not extend to the review of the following categories of buildings, structures or exterior architectural features of the historic district and, in this event, the buildings, structures or exterior architectural features so excluded may be constructed or altered within the historic district without review by the commission:

(a) Temporary structures or signs, subject, however, to such conditions as to duration of use, location, lighting, removal and similar matters as the commission may reasonably specify;

(b) Storm doors and windows, screens, window air conditioners, lighting fixtures, antennae, lawn statuary and similar appurtenances, or any one or more of them;

(c) The color of paint;

(d) Signs, which are in, full compliance with the City of Fairview, Tennessee sign ordinance(s).

(e) The reconstruction, substantially similar in exterior design, type of use and size of a building, structure or exterior architectural feature damaged or destroyed by storm or other disaster, provided such reconstruction is begun within one (1) year thereafter and carried forward with due diligence; and upon request by an applicant, the commission

shall issue a certificate on non-applicability with respect to construction or alteration in any category they not subject to review by the commission in accordance with the above provisions.

(4) Commission powers and duties. The commission shall have the following powers, functions and duties related to issuance of certificates:

(a) If the commission determines that the construction or alteration for which an application for a certificate of appropriateness that has been filed will be appropriate for or compatible with the preservation or protection of the historic district, the commission shall cause a certificate of appropriateness to be issued to the applicant. In the case of a disapproval of an application for a certificate of appropriateness the commission shall place upon its records the reasons for such determination and shall forthwith cause a notice of its determination, accompanied by a copy of the reasons therefore as set forth in the records of the commission, to be issued the applicant. The commission may make recommendations to the applicant with respect to appropriateness of design, arrangement, texture, material, and similar features. Prior to the issuance if any disapproval the commission may notify the applicant of its proposed action accompanied by recommendations of changes in the applicant's proposal which, if made, would make the application acceptable to the commission. The commission shall, as feasible, identify sources of additional information, technical assistance and financial incentives, which may eliminate the area of concern. If, within fourteen (14) days of the receipt of such notice, the applicant files a written modification of his application in conformity with the recommended changes of the commission, the commission shall cause a certificate of appropriateness to be issued to the applicant.

(b) In the case of determination by the commission that an application for a certificate of appropriateness or for a certificate of non-applicability does not involve any exterior architectural feature, or involves an exterior architectural feature which is not then subject to review by the commission in accordance with the provisions of § 2-406(3), the commission shall cause a certificate of non-applicability to be issued to the applicant.

(c) The commission shall determine if the construction or alteration for which an application for a certificate of appropriateness has been filed is inappropriate, or in the event of an application for a certificate of hardship, the commission shall determine if, owing to conditions especially affecting the building or structure involved, (e.g. handicapped access), but not affecting the historic district generally, failure to approve an application will involve a substantial hardship, financial or otherwise, to the applicant. The commission shall also determine whether such application may be approved without substantial detriment to the public welfare and without substantial derogation from

the intent and purposes of this ordinance. If the commission determines that owing to such conditions failure to approve an application will involve substantial hardship to the applicant and approval thereof may be made without such substantial detriment or derogation, or in the event of failure to make a determination on an application within the time specified in § 2-407, the commission shall cause a certificate of hardship to be issued to the applicant.

(d) Each certificate issued by the commission shall be dated and signed by its chairman, vice-chairman, secretary or such other person designated by the commission to sign such certificates on its behalf. Each certificate issued by the commission shall also be accompanied by a document substantiating in sufficient detail, the basis of the determination. Certificates are valid for one (1) full year from the date of issuance and must be revalidated by the commission if substantial work has not been completed by the end of this period.

(e) The commission shall file with the city clerk and with the city codes department a copy or notice of all certificates, determinations of disapproval and substantiating documents issued by it. (as added by Ord. #643, Oct. 2006)

2-407. Meetings of the commission. (1) Voting: The commission shall hold meetings at the call of the chairman or at the request of two (2) members of the commission, and in such other manner as the commission shall determine in its rules. A majority of the members of a commission shall constitute a quorum. The concurring vote of a majority of the members of the commission shall be necessary to issue a certificate of appropriateness, a certificate of non-applicability or a certificate of hardship.

(2) Review of application: The commission shall determine promptly, and in all events within fourteen (14) days after the filing of an application for a certificate of appropriateness; a certificate of non-applicability or a certificate of hardship, as the case may be, whether the application involves any exterior architectural features which are subject to approval by the commission. If the commission determines that such application involves any such features which are subject to approval by the commission, the commission shall hold a public hearing on such application unless such hearing is dispensed with as hereinafter provided.

(3) Hearing an application: The commission shall fix a reasonable time for the hearing on an application and shall give public notice of the time, place and purposes thereof at least fifteen (15) days before said hearing in a newspaper of general local circulation, and by mailing, postage prepaid, a copy of such notice to the applicant, to the owners of all adjoining property and other property deemed by the commission to be material affected thereby as they appear on the most recent real estate tax list of the Williamson County tax assessor or trustee, to the city planning commission and board of commissioners,

to any person filing a written request for notice of hearing, such request to be renewed yearly in December, and to such other persons as the commission shall deem entitled to notice.

(4) Period of determination: As soon as convenient after such public hearing, but in any event within forty-five (45) days after the filing of the application, or within such further time as the applicant may allow in writing, the commission shall make a determination on the application. If the commission shall fail to make a determination within such period of time, the commission shall thereupon issue a certificate of hardship. (as added by Ord. #643, Oct. 2006)

2-408. Process of appealing determination of the commission. (1) Initial appeal. A person aggrieved by a determination of the commission may, within twenty (20) days after the filing of the notice of such determination with the city clerk, appeal to the City of Fairview, Tennessee, Board of Commissioners.

(2) Court option. A person aggrieved who receives an adverse decision from the initial appeal to the City of Fairview, Tennessee, Board of Commissioners may exercise their right to appeal to the appropriate court of the State of Tennessee in accordance with the then existing statutes and rules of procedure of the State of Tennessee.

(3) Costs. Costs of the initial appeal to the Board of Commissioners of the City of Fairview, Tennessee shall not be allowed against the commission unless it shall appear to the board of commissioners that the commission acted with gross negligence, in bad faith or with malice in the matter from which the appeal was taken. In all cases appealed to the courts of the State of Tennessee, cost shall be awarded by the court hearing the appeal. (as added by Ord. #643, Oct. 2006)

2-409. Enforcement. The appropriate court(s) of the State of Tennessee shall have jurisdiction to enforce the provisions of this ordinance and the determinations, rulings and regulations issued pursuant thereto and may, upon the petition of the board of commissioners, after recommendation of the commission, restrain by injunction violations thereof; and, without limitation, such court(s) may order the removal of any building, structure or exterior architectural feature constructed in violation thereof, or the substantial restoration of any building, structure or exterior architectural feature altered or demolished in violation thereof, and may issue such other orders for relief as may appear equitable to the court(s).

Whoever violates any of the provisions of this ordinance shall be punished by a fine of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00). Each day during any portion of which a violation continues to exist shall constitute a separate offense. (as added by Ord. #643, Oct. 2006)

2-410. Limited coverage. Nothing in this ordinance shall be construed to prevent the ordinary maintenance, repair, or replacement of any exterior architectural feature within a historic district which does not involve a change in design, material, color or the outward appearance thereof, nor to prevent landscaping with plants, trees or shrubs, nor construed to prevent the meeting of requirements certified by a duly authorized public officer to be necessary for public safety because of an unsafe or dangerous condition nor construed to prevent any construction or alteration under a permit duly issued prior to the effective date of this historic district ordinance. (as added by Ord. #643, Oct. 2006)

2-411. Amendments to ordinance. This ordinance enabling the creation of historic districts may from time to time be amended in a manner not inconsistent with the provisions of the statutes of the State of Tennessee and the City of Fairview, Tennessee, Municipal Code, by a majority vote of the board of commissioners, provided that the substance of such amendment has first been submitted to the historic preservation commission, for their recommendation and their recommendations have been received or least thirty (30) days have elapsed without receipt of such recommendations. This section shall not be construed in any manner to direct or imply that the board of commissioners cannot amend this ordinance in compliance with the provisions heretofore outlined. (as added by Ord. #643, Oct. 2006)

2-412. Designation of historic districts.¹ There are hereby established under the provisions of the Statutes of the State of Tennessee and the City of Fairview, Tennessee Municipal Code, historic districts bounded as shown on the map, which is made a part of this ordinance by reference as fully as if copied herein verbatim. (as added by Ord. #643, Oct. 2006)

¹A copy of the historic district map shall be kept in the city recorder's office, and is available to the public during normal business hours.