

# City of Mason, Ohio

# Zoning Code Amendments

Ordinance No. 2005-\_\_\_\_  
Adopted \_\_\_\_\_

November 7, 2005 Draft



SECTION 1.

CHAPTER 1133 Definitions is hereby amended to establish and insert Section 1133.65 DOWNTOWN OVERLAY DISTRICT, to read as follows:

**0.1 DOWNTOWN OVERLAY DISTRICT.**

An area within the corporate limits of the City of Mason, Ohio designated by Council that are subject to the regulations of CHAPTER 1170. Following are additional definitions that pertain to the CHAPTER 1170 Downtown Overlay District:

- A) **Alter or Alteration.** Any material change in an existing external architectural feature of any property which lies within the Downtown Overlay District is covered in this regulation, including: demolition or removal; modification to existing signage or placement of new signage; new construction or additions; improvement to roofs, windows, siding, awnings/canopies, additions, and doors/entrances, but not including the landscaping of real property and painting.
- B) **Applicant.** Any owner, owners, person(s), association, partnership, or corporation who applied for a Certificate of Appropriateness in order to undertake any change on property subject to this regulation.
- C) **Background Buildings.** Buildings having a low level of architectural integrity and historic significance in the community. Background buildings include structures from all periods of the city's history that form the backdrop for other buildings. If they are more than 40 years old, they may have alterations or exterior changes that diminish their architectural significance.
- D) **Board.** See Design Review Board.
- E) **Certificate of Appropriateness.** A certificate issued by the Design Review Board authorizing alterations to existing buildings or authorizing new construction in the Downtown Overlay District to ensure that alterations and new construction preserve the downtown's unique historical character.
- F) **Contributing Buildings.** Buildings having a moderate-high level of architectural integrity and historic significance in the community. Contributing buildings are at least 40 years old and retain the defining characteristics of their original construction or architectural style. This group includes buildings that contribute to the historic character of the downtown streetscape.
- G) **Council or City Council.** The legislative body of the City of Mason.
- H) **Design Review Board (Board).** The Design Review Board (Board) established under the provisions of CHAPTER 1170.

- I) **Demolition.** The removal of all or part of a structure.
- J) **Downtown Core.** An area of special concern in the Downtown Overlay District defined as the properties located between the Main Street /Mason-Montgomery Road intersection and the Main Street / Reading Road intersection. The Downtown Core also extends 150 feet east of the Main Street / Montgomery Road intersection and 150 feet west of the Main Street/Reading Road intersection.
- K) **External Architectural Feature.** The architectural style, general design and arrangement of the exterior of a structure including, but not limited to, the type, color (for new construction and rehabilitation), and texture or the building material, doors, windows, roof, porches and other appurtenant fixtures.
- L) **Landmark Buildings.** Buildings having a high level of architectural integrity and historic significance in the community. Landmark buildings are at least 40 years old and retain the defining characteristics of their original construction or architectural style. They may be historically important for their association with important people or events in local history, or architecturally important as an example of a type, style or method of construction from the past.
- M) **Maintenance.** See repair.
- N) **Member.** Any member of the Design Review Board as established under the provisions of this Regulation.
- O) **New Construction.** Any improvement made to real property that is not done in conjunction with an existing structure.
- P) **Non-Historic Buildings.** Buildings that are either examples of newer construction or older buildings that have had major alterations that result in a loss of historic or architectural significance.
- Q) **Planning Commission.** The Planning Commission of the City of Mason as established by Article VII, Section 7 of the Charter of the City of Mason.
- R) **Repair and Maintenance.** Replacement of any part of a property where the purpose and effect of such work and replacement is to correct or prevent any deterioration or decay to such property, or any part thereof, and to restore same, as nearly as may be practicable, to its original condition and appearance, including minor repair of exterior surfaces including caulking, repointing, and nonabrasive cleaning. All activities undertaken on existing buildings not deemed a minor repair by the Design Review Board shall be considered an Alteration.

**SECTION 2.**

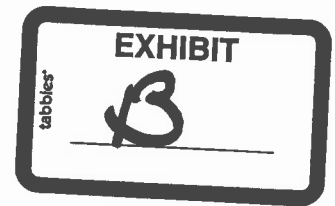
Section 1145.8 OVERLAY DISTRICTS is hereby established and inserted into CHAPTER 1145 Districts and Boundaries, to read as follows:

**1145.8 OVERLAY DISTRICTS**

**Overlay districts are zoning tools used for dealing with unique situations or accomplishing special planning and zoning goals. Overlay districts may be created where the land use regulations and associated development standards of the underlying zoning districts are deemed inadequate to be effective. As the name implies, overlay zoning districts are “overlaid” on top of base zoning districts. The overlay district alters or adds to the zoning requirements of the base zoning district or districts. Overlay districts are shown on the official Zoning Map as dashed lines labeled with the overlay map designation or with the overlay district name. Overlay districts shall be given a two letter designator that follows the designation of the underlying base zoning district. For example, a lot located in the B-1 Central Business District and in the Downtown Overlay District shall have the zoning designation of B1-DO.**

**The following overlay districts are included in the City of Mason Zoning Code:**

<b>Overlay District Name</b>	<b>Zoning Map Designation</b>
<b>Downtown Overlay District</b>	<b>DO</b>



SECTION 3.

CHAPTER 1170 Downtown Overlay District is hereby established and inserted in TITLE FIVE – Zoning Districts of the City of Mason Zoning Code and Subdivision Regulations to read as follows:

**Downtown Overlay District  
CHAPTER 1170**

<b>1170.1 PURPOSE.</b>	<b>GUIDELINES AND STANDARDS.</b>
<b>1170.2 CREATION AND BOUNDARIES.</b>	<b>1170.11 CERTIFICATE OF APPROPRIATENESS REVIEW PROCEDURES.</b>
<b>1170.3 EFFECT OF DO DOWNTOWN OVERLAY DESIGNATION.</b>	<b>1170.12 INTEGRATED REVIEW PROCEDURES.</b>
<b>1170.4 PERMITTED USES.</b>	<b>1170.13 EXPIRATION OF CERTIFICATE OF APPROPRIATENESS.</b>
<b>1170.5 PROHIBITED USES.</b>	<b>1170.14 REVOCATION.</b>
<b>1170.6 DEVELOPMENT STANDARDS.</b>	<b>1170.15 SITE MAINTENANCE AFTER APPROVAL.</b>
<b>1170.7 ESTABLISHMENT OF DESIGN REVIEW BOARD.</b>	<b>1170.16 APPEALS.</b>
<b>1170.8 POWERS AND DUTIES OF THE DESIGN REVIEW BOARD.</b>	<b>1170.17 PENALTIES.</b>
<b>1170.9 CERTIFICATE OF APPROPRIATENESS REQUIRED.</b>	<b>1170.18 SEVERABILITY.</b>
<b>1170.10 CERTIFICATE OF APPROPRIATENESS REVIEW</b>	<b>1170.19 MINIMUM MAINTENANCE REQUIREMENT.</b>
	<b>1170.20 EXCLUSIONS.</b>

**1170.1 PURPOSE.**

- A) To establish procedures whereby the historical and architecturally significant assets located within the Downtown Overlay District are afforded protection from actions that would be detrimental to preserving irreplaceable cultural and community resources.**
- B) To follow the Secretary of the Interior’s *Standards for the Rehabilitation of Historic Buildings*.**
- C) To enhance property values, protect property rights, stabilize and improve downtown and adjacent neighborhoods, and increase economic and financial benefits to Mason businesses and inhabitants.**
- D) To create a vibrant community focal point through innovative and creative site design and architecture that continuously evolves over time.**
- E) To encourage new development at appropriate locations in a manner consistent with desired architectural and urban design guidelines.**

- F) To encourage higher density mixed use development with an above-grade residential and office component, pedestrian friendly site design, and an urban “Main Street” character.
- G) To promote developments where the physical, visual and spatial characteristics are established and reinforced through the consistent use of compatible urban design and architectural design elements.
- H) To prohibit or restrict uses that are disruptive to pedestrian activities and have as their principal function the sale and services of motor vehicles, such as automobile service stations, auto parts retail stores, car washes, new and used motor vehicle sales or service establishments, drive-in restaurants and restaurants with drive-through facilities, business with drive-through facilities (such as but not limited to banks, credit unions, pharmacies, etc.).

#### **1170.2 CREATION AND BOUNDARIES.**

This chapter of the Zoning Code is created as an overlay district to be applied within and adjacent to the B-1 Central Business District as the City Council designates by ordinance. The boundaries of the district are depicted on the Official Zoning Map. A map of the boundaries is also included in the Downtown Mason Design Guidelines Handbook. The Downtown Business Overlay District is described as:

- A) The parcels fronting Main Street from Mason Road to Kings Mills Road, and
- B) The parcels fronting Reading Road/US 42 from 4th Avenue to Main Street.

#### **1170.3 EFFECT OF DOWNTOWN OVERLAY DESIGNATION.**

The Downtown Overlay District regulations apply in combination with underlying base zoning district regulations and all other applicable standards of this Zoning Code. When Downtown Overlay District standards conflict with the underlying base zoning district regulations and other standards of this zoning code, the regulations of the Downtown Overlay District will apply. In this case, the underlying zoning districts are the B-1 Central Business District, R-4 Single Family Residential District, and B-3 Road Service District.

#### **1189.4 PERMITTED USES.**

Within the Downtown Overlay District, no building shall be erected, used, or structurally altered, nor shall the land or premises be used in whole or in part, except for uses permitted in the underlying zoning district except as otherwise permitted and prohibited in the following additional provisions:

- A) The uses permitted in Chapter 1155 B-1 Central Business District, Section 1155.2 and Section 1155.3, and the other uses permitted in this section are principally

**permitted uses in the Downtown Overlay District subject to the requirements of the Downtown Mason Guideline Handbook.**

- 1) Public parks, greens, squares, and plazas.**
- 2) Outdoor seating operated and maintained by a restaurant, café, or coffee shop.**
- 3) Public parking lots.**
- 4) Financial institutions and drug stores, cafes and coffee shops and other similar consumer service uses with drive through facilities as approved by Planning Commission.**

#### **1189.5 PROHIBITED USES.**

**Auto oriented and more intensive commercial uses and associated ancillary uses are prohibited including:**

- A) Vehicle sales, rental and services.**
- B) Equipment sales, rental and services.**
- C) Auto repair, body shops, automobile accessories.**
- D) Automobile washing facilities.**
- E) Automobile Service Stations.**
- F) Vehicle storage.**
- G) Other similar uses as determined by the Planning Commission.**

#### **1170.6 DEVELOPMENT STANDARDS.**

**Except as otherwise noted, buildings and uses in the Downtown Overlay District shall comply with the architectural and site development guidelines and additional review procedures established in the Downtown Mason Design Guideline Handbook, as adopted and amended by City Council. The Downtown Mason Design Guideline Handbook is hereby adopted by reference, in its entirety, as if its entire text and substance were a part of this Chapter.**

#### **1170.7 ESTABLISHMENT OF DESIGN REVIEW BOARD.**

**There is hereby established a Design Review Board (Board), which shall have the powers and duties, as are hereinafter set forth in this Regulation. The Board shall consist of seven members, who shall be appointed by the City Manager subject to confirmation from Council. Design Review Board members shall be appointed with due regard for the need to include Preservation District property owners and professional expertise in the fields of architecture, engineering, history, archaeology, urban planning, landscape architecture, art design or other related disciplines.**

**The Design Review Board shall consist of 1) one architect; 2) a council member; 3) a member of the Mason Historical Society; 4) a Downtown Overlay District property owner;**

5) a business owner of the Downtown Overlay District; 6) a general resident of Mason; and 7) a member of Planning Commission. Members shall be appointed to serve three years, except the Council member shall be appointed to a two-year term. For the initial year, two members shall have one-year terms, two members shall have a two-year term, and three members shall have a three-year term. Members shall serve until their successors have been named and qualified. A majority of the membership of the Board shall constitute a quorum, and any action or decision of the Board shall have the support of such a majority of its members elected thereto.

#### **1170.8 POWERS AND DUTIES OF THE DESIGN REVIEW BOARD.**

- A) The Design Review Board (Board) shall adopt rules and regulations, consistent with this Regulation, governing its procedures and transactions.**
- B) The Board shall meet as required to carry out the review of applications for Certificates of Appropriateness (COA), and such other related work as may be accepted through request of Council or undertaken on its own motion. The Board shall review all plans for new construction and the alteration, repair, moving, or demolition of existing structures located within the Downtown Overlay District. Only the Board is empowered to issue a COA, except that the Planning Commission may issue a COA upon appeal per Section 1170.16.**
- C) A meeting shall be held at least once each month when there are applications to be considered and not less than once a year. Special meetings may be held at the call of the chairperson of the Design Review Board.**
- D) The Board shall annually select one of its members to serve as chairperson and one as vice chairperson. The City Manager shall provide such staff assistance as is necessary and available. All municipal departments and agencies shall cooperate in expediting the work of the Design Review Board.**
- E) The Board may review Formal Site Plan and Planned Unit Development applications submitted in the Downtown Overlay District in an advisory capacity to Planning Commission.**
- F) The Board may review Informal Site Plan applications submitted in the Downtown Overlay District in an advisory capacity to City staff.**
- G) The Board shall advise Council and its other boards and commissions on matters related to downtown preservation and development and the downtown overlay district and regulations.**
- H) The Board shall recommend revisions to the Downtown Overlay District regulations and boundaries and the Downtown Design Guideline Handbook and Building Inventory.**



- I) **The Board will conduct or encourage members to attend educational sessions or to seek in-depth consultation on matters of historic preservation and/or downtown development guidelines. Such training should pertain to the work and functions of the Board. Board members should participate in such a session at least once annually.**
- J) **The Board may establish policies, application requirements, rules and regulations as it deems necessary to administer its duties.**

**1170.9 CERTIFICATE OF APPROPRIATENESS REQUIRED.**

- A) **Alterations and New Construction. No alteration or new construction of any structure located in the Downtown Overlay District shall be undertaken prior to obtaining a Certificate of Appropriateness from the Design Review Board and a Building Permit shall not be issued by the Engineering and Building Department for the construction, reconstruction, relocation, alteration, or demolition of any area, place, site, building, structure object, or work of art within a designated Downtown Overlay District unless the application for such permit is approved by the Design Review Board through the issuance of Certificate of Appropriateness in the manner prescribed herein.**
- B) **Repairs, Informal Approval. In order to expedite and encourage timely maintenance and repair work in a designated Downtown Overlay District, the Board authorizes the Downtown Business Coordinator to review and approve repair and maintenance work that does not change the design, materials, or general appearance of structures designated as Landmark, Contributing, Background or Non-historic as defined in the Downtown Mason Design Guideline Handbook. The Downtown Business Coordinator may solicit comments and recommendations from the City Engineer, Building Official, City Planner, and other qualified individuals in order to make a determination if the proposed repair does not change the design, materials or general appearance of the structure. Staff may forward the application to the Board for Certificate of Appropriateness approval when a determination regarding the proposed repair cannot be made. Staff may approve the:**
  - 1) **Replacement of missing bricks, repointing with same color and type of mortar and reconstruction with brick matching in color, size, and shape.**
  - 2) **Replacement of clapboards, siding, moldings, fascia boards, gutters, railing units, shutters, awnings, canopies, shingles and other exterior surfaces when there is no change in design, materials, or general appearance.**
  - 3) **Cleaning and repointing of the foundation and repair when like materials and colors is used. The same mortar mixture should be used to allow similar expansion and contraction of the foundation.**
  - 4) **Installation of window air conditioners when they are not facing the street and if there is no change in window structure and installation of ground and**

- roof mounted air conditioner units that are properly screened and inconspicuously located (tubing and connections must not be readily visible).
- 5) Replacement of existing storm windows with a similar product. A change from wooden to metal or vinyl storm windows is required to be reviewed by the Board.
  - 6) Replacement of windows when they are of like material, in size, shape, and appearance.
  - 7) The replacement of roofing materials that are similar or better than what was previously on the structure. In the case where slate, tile or cedar shakes are proposed to be replaced with a different material, Board approval is required.
- C) **Demolition.** No demolition, in part or in whole, of any structure located in the Downtown Overlay District shall be undertaken prior to obtaining a Certificate of Appropriateness from the Design Review Board. The demolition of buildings identified as Background or Non-Historic Buildings will be evaluated within the context of the greater downtown. While Background and Non-historic buildings may not be historically or architecturally significant, their removal should be considered in the context of the proposed replacement or redevelopment of the site and the impact the loss of the existing structure will have on the Downtown Overlay District. The Board will review demolition requests for Landmark and Contributing structures with additional scrutiny.
- 1) **Redevelopment Site Plan Approval Required.** A Redevelopment Site Plan for demolition and redevelopment of the site must be submitted as part of a Certificate of Appropriateness application. The Redevelopment Site Plan must meet the data requirements of Section 1135.5 and requires Planning Commission approval. In addition to the requirements of Section 1135.5, the applicant shall provide evidence of financing and a commitment to build new which mitigates any adverse effect of the proposed removal upon the property, streetscape and the district through one or more of the following:
    - a) New construction that complies with all regulations of the Downtown Overlay District and is consistent with guidance contained in the Downtown Mason Design Guidelines Handbook.
    - b) Exterior rehabilitation or restoration of the remaining structure that is consistent with the Downtown Mason Overlay District and guidance contained in the Downtown Mason Design Guidelines Handbook.
    - c) Landscaping the entire parcel consistent with the Downtown Mason Design Guidelines Handbook and City of Mason Landscape and Street Tree Ordinance. This regulation shall apply only when the building is declared a public nuisance.
  - 2) **Additional Requirements for Landmark and Contributing Buildings.** It is the intent of this regulation to preserve, retain and rehabilitate Landmark and Contributing buildings located in the Downtown Overlay District. The

**Board may approve demolition request for Landmark and Contributing structures only after the applicant has provided compelling evidence that the standards authorizing demolition have been met. Thus, an application for a Certificate of Appropriateness for demolition of a Landmark and Contributing building, or any portion thereof, must meet one condition of subsection a), b), or c) and the conditions of subsection d) below.**

- a) **Evaluation of significance.** The applicant presents clear evidence showing that the building in question is not locally significant and that its removal will not adversely affect the architectural or historic integrity of the streetscape or community.
  - b) **Evaluation of condition.** The applicant presents clear evidence that the structure has incurred extensive damage to its basic structural elements, such as the roof, walls and foundation, requiring substantial reconstruction. The applicant shall provide photographs showing such condition, as well as a written evaluation of condition provided by a competent architect, structural engineer, or other building professional.
  - c) **Evaluation of rehabilitation costs.** The applicant presents clear evidence that the square foot cost of meeting the minimum building code would exceed the square foot market value of similarly used and improved structures in the district.
  - d) **Evaluation of Alternatives to Demolition.** Alternatives to demolition must be given serious consideration by the applicant. The applicant must present all demolition alternatives that were analyzed and demonstrate to the Board's satisfaction that no feasible alternative to demolition exist. As such, the applicant shall investigate alternatives to demolition and prepare a feasibility analysis for each demolition alternative for the Design Review Board's consideration. At minimum, the applicant shall consider the following alternatives: 1) offering the building for sale at a fair market price to a buyer who could make use of the structure; 2) moving the historic building to another appropriate location on the lot, elsewhere downtown, or elsewhere in the City; 3) rehabilitating and occupying only part of the building while "mothballing" the remainder for remodeling at a later time; 4) preserving a portion of the structure; or 5) seeking grants or tax credits to help finance the rehabilitation and reuse of the building.
- 3) **Security Required.** The applicant shall post a performance bond with security sufficient to insure completion of the: (1) demolition including the removal of all subgrade improvements, (2) site grading, stabilization and landscaping, and (3) the Redevelopment Site Plan as approved by Planning

**Commission.**

- 4) **Timing of Demolition.** A Building Permit shall not be issued by the Engineering and Building Department for the demolition of any structure or any part thereof within a designated Downtown Overlay District until such time the applicant receives COA approval from the Board, Redevelopment Plan approval from the Planning Commission, and the required security is posted.
  
  - 5) **Denial of Certificate of Appropriateness for Demolition.** The Board and applicant shall undertake meaningful and continuing discussion during the waiting period prescribed in Section 1170.11 H) in order to find a means of preserving the property. The Board and applicant shall investigate the feasibility of all means of preserving the listed property. If the Board and applicant do not agree on a means of preserving the structure at the initial meeting, then they must continue to meet for the purpose of finding a method of saving the structure, and such good faith meetings shall be held at least every forty-five (45) days after the initial meeting. If the applicant fails to meet with the Board in good faith, at the time specified, then the Board denial of the application will stand. If, after holding such good faith meeting in the waiting period specified by the Board, the Board determines that failure to issue a COA will create a substantial hardship to the applicant and that such certificate may be issued without substantial detriment to the public welfare and without substantial deviation from the purposes of this Chapter, then and in such event, the Secretary of the Board shall issue a COA for such request.
- D) **Formal Site Plan Review Required.** Any drive through facility or new construction including additions to existing structures that exceeds 5,000 square feet in gross floor area or increases the floor area of an existing structure by more than twenty five percent (25%) shall require formal site plan approval by the Planning Commission subject to the requirements of Section 1135.4 A) and Section 1135.5.
- E) **Informal Site Plan Review Required.** Any addition or new construction that is less than 5,000 square feet in gross floor area or increases the floor area of an existing structure by less than twenty five percent (25%) shall require informal site plan review by the City Planner or his agent in accordance with the informal review and approval procedures of Section 1135.4.
- 1170.10 CERTIFICATE OF APPROPRIATENESS REVIEW GUIDELINES AND STANDARDS.**
- A) In its consideration of whether a proposed alteration or new construction is deserving of a Certificate of Appropriateness (COA), the Board shall consider the guidelines set forth in the Downtown Mason Design Guidelines Handbook.

- B) In its considerations of whether a proposed alteration is deserving of a COA, the Board may consider the cost of modifications, where costs for a particular action or inaction may be unreasonable given existing conditions of a structure, site, or area.**
- C) The Board shall encourage repairs and alterations to Landmark and Contributing structures, not including demolition, that are compatible with their existing architectural form, design and materials. Additions to Landmark and Contributing Buildings shall be contemporary but compatible in form, style and materials with the original structure. This work shall be guided by the Secretary of the Interior's *Standards for Rehabilitation*, per this Chapter.**
- D) The Board shall be flexible in its review of plans for alteration, repair, or demolition of Background and Non-Historic buildings, as well as other sites and areas of little historic or cultural value, except where such repair, alteration or demolition would seriously impair the historic value and character of surrounding Landmark and Contributing structures or of the surrounding downtown area.**
- E) Alteration, additions or new construction shall not be limited to any one period or architectural style. Historic periods represented by Landmark and Contributing buildings in the downtown area will be respected, and new work shall be harmonious and compatible with existing character of the downtown.**
- F) The requirements in this Chapter and the Downtown Mason Design Guideline Handbook are minimum requirements, and under no circumstance shall they preclude an applicant and the Board from agreeing to more extensive requirements.**
- G) The Board may modify building design guidelines of the Downtown Mason Design Guideline Handbook when a proposed addition or new construction does not meet the minimum architectural standards but is deemed of exceptional quality by the majority of Board members.**
- H) The Board may request experts to aid in its deliberations subject to financial availability approved by City Council.**

#### **1170.11 CERTIFICATE OF APPROPRIATENESS REVIEW PROCEDURES.**

- A) Pre-application Meeting. The developer is encouraged to meet with the Downtown Business Coordinator prior to submission of a Certificate of Appropriateness (COA) application. The intent of this meeting is to discuss early and informally, the purpose and effect of the ordinance and the criteria and standards contained herein. It will also give the applicant the opportunity to become familiar with zoning regulations and procedures, as well as the benefit of any comments on the specific proposal by City staff.**

- B) When the owner of a property within a Downtown Overlay District proposes new construction or demolition or alteration to any portion of a structure within the district he/she shall first apply for and secure a COA from the Design Review Board. The application for a COA shall be made with the Downtown Business Coordinator, together with such plans, specifications, renderings, fees and other material as required and as the Design Review Board may from time to time prescribe. Revisions to application requirements shall come into effect (30) days in advance of the next regularly scheduled Board meeting.**
- C) After a COA application is received, the Downtown Business Coordinator or an assigned agent shall determine whether the application is complete. If incomplete, the Downtown Business Coordinator shall advise the applicant within twelve (12) days of any additional information that is necessary or required. The applicant shall have seven (7) days to submit the missing information. Failure to submit the missing information will result in the application not being placed on the Board's meeting agenda.**
- D) After determining that the COA application is complete, the Downtown Business Coordinator or an assigned agent shall review the COA application materials to determine conformance with the Downtown Mason Design Guidelines Handbook. Then, the Downtown Business Coordinator shall forward the COA application and his professional recommendation to the Board three days before the next Board meeting.**
- E) The applicant shall receive notification of the time and place set for review of the COA application by the Board, and shall appear promptly at such stated time and place, and shall bring with him such other information or witnesses as are requested by the Board, or which the applicant deems to be helpful to a speedy and thorough review. The applicant, his agents or any witnesses called by him may be heard at such review**
- F) The Board shall review the recommendations and notations of the Downtown Business Coordinator or her agent and evaluate whether or not the buildings and structures to be constructed, altered, repaired, relocated or demolished comply with the requirements of the Downtown Mason Design Guidelines Handbook. The Board will make a determination based on this review and take action on the COA as follows:**
- 1) Approval. If the proposed alteration or new construction is determined to have no adverse effect by the Board on the Overlay District, and does not violate the spirit and purpose of these regulations, and then the Board Secretary shall issue the Certificate of Appropriateness.**
  - 2) Approval Subject to Conditions. Upon determination that a COA is in compliance except for minor modifications, the conditions for approval shall be identified and the applicant shall be given the opportunity to correct minor deficiencies. The applicant may re-submit the COA to the Board for**

**final review after conditions have been met. The Board may waive its right to review the revised COA application and instead authorize the Downtown Business Coordinator or assigned agent to review and recommend approval of the re-submitted application materials if all required conditions have been addressed.**

- 3) Denial. Upon determination that a COA application does not comply with the standards and regulations set forth in this Chapter, or that the proposed alteration will have an adverse effect on the Downtown Overlay District, or the COA application requires extensive revision in order to comply with said standards and regulations, the DRB shall deny the requested COA.**
  
- G) The determination made under subsection 1170.11 F), being an approval, approval subject to conditions, or disapproval of a COA, respectively, shall be endorsed on the plans including the date of such action and all contingencies and findings of fact supporting the Board's decision. A copy of the Board's decision and findings of fact shall be forwarded to the applicant.**
  
- H) Upon denying a Certificate of Appropriateness, the Board may impose a waiting period of at least thirty (30) days, but not to exceed six (6) months from the date of disapproval, during which time the Board shall negotiate with the owner of the property in order to develop a compromise proposal acceptable to both. The first meeting between the Board and applicant shall be held within sixty (60) days from the date of disapproval. If a compromise proposal is accepted by both parties, the Board may henceforth issue a Certificate of Appropriateness.**
  
- I) 1170.12 INTEGRATED REVIEW PROCEDURES.**

**The purpose of the integrated procedure is to provide a streamlined review process for actions that require review approval by two different city boards, commissions, or staff. The procedures listed in this section are optional and will be used at the request of the applicant.**

- A) Site Plan or Final Planned Unit Development (PUD) Plan. The following procedures shall govern when an action requiring Certificate of Appropriateness (COA) approval from the Board also requires Formal Site Plan approval from the Planning Commission subject to Section 1135.5 or Final PUD Plan approval subject to Chapter 1161.**
  - 1) A COA application and site plan application or Final PUD Plan shall be submitted concurrently at least 30 days prior to the next regularly scheduled Planning Commission meeting.**

- 2) **A Board meeting shall be held two weeks in advance of the Planning Commission meeting. Copies of the COA application materials and site plan or final PUD plan application materials shall be forwarded to Board members for their review prior to the Board meeting.**
- 3) **The Board shall consider the COA application and take action on the COA compliant with Section 1170.11 F).**
- 4) **The Board shall review site plans and final PUD plans and make recommendations concerning such plans to the Planning Commission. The Board shall review the proposed plans for compliance with the standards found in the Downtown Mason Design Guideline Handbook. Board recommendations shall be transmitted in writing and included in Planning Commission packets for the Planning Commission's consideration.**
- 5) **The Planning Commission may take action on site plan or Planned Unit Development applications without receiving a Board recommendation.**

**B. Informal Site Plan Review. The following procedures shall govern when an action requiring a COA from the Board also requires Informal Site Plan Review approval subject to Section 1135.4.**

- 1) **A COA application and Informal Review application shall be submitted concurrently at least twenty-one (21) days prior to the next regularly scheduled Board meeting.**
- 2) **Copies of the COA application materials and Informal Review application materials shall be forwarded to Board members for their review prior to the Board meeting date.**
- 3) **The Board shall consider the COA application and take action on the COA compliant with Section 1170.11 F).**
- 4) **The Board shall review the Informal Review application and make a recommendation to the City Planner regarding the application's compliance with the standards found in the Downtown Mason Design Guideline Handbook.**
- 5) **The City Planner or his agent may take action on an Informal Site Plan Review application without receiving a Board recommendation.**



**1170.13 EXPIRATION OF CERTIFICATE OF APPROPRIATENESS.**

If construction or alterations have not commenced within eighteen (18) months of COA approval, COA approval becomes null and void and a new application for COA review shall be required. The Board may grant a twelve (12) month extension, upon written request from the applicant, if it finds that the approved site plan adequately represents current conditions on and surrounding the site. The written request for extension must be received prior to the COA expiration date or a new application for COA review shall be required.

**1170.14 REVOCATION.**

Approval of a COA may be revoked by the Board if new construction or alterations are not in conformance with the approved plans. In such a case, the Downtown Business Coordinator shall place the COA on the agenda of the Board for consideration, and give written notice mailed to the applicant at least ten (10) days prior to the meeting. The applicant shall be given the opportunity to present information to the Board and answer questions. The Board may revoke the approval of the COA if it finds that a violation exists and has not been remedied prior to the hearing. No work requiring COA approval may commence or continue after COA revocation is instituted by the Board. The applicant shall thereafter reapply for COA approval before work may recommence.

**1170.15 SITE MAINTENANCE AFTER APPROVAL.**

It shall be the responsibility of the owner of a property for which COA approval has been granted to maintain the property in accordance with the approved COA application and building design. Any property owner, who fails to maintain an approved COA in full compliance with approvals granted by the Board according to the provisions of these regulations, shall be deemed in violation of the use provisions of these regulations and shall be subject to the penalties stated in this Ordinance.

**1170.16 APPEALS.**

- A) Decisions by the Design Review Board may be appealed in writing by the applicant within seven (7) business days of the Design Review Board's decision.
- B) The Planning Commission shall consider an appeal at a public hearing within ninety (90) days of receipt of notice of appeal, and shall utilize the written findings of the Design Review Board.
- C) A majority vote of the Planning Commission shall be required to overturn a decision of the Design Review Board.

- D) Decisions by the Planning Commission shall be deemed final administrative orders for appellate purposes and shall be thereafter regulated by Chapter 2506 of the Ohio Revised Code.**

**1170.17 PENALTIES.**

Whoever authorizes the construction, reconstruction, alteration, or demolition of any exterior feature of any structure, work of art, object, or area in violation of this Regulation, or whoever maintains, changes, or installs a sign in violation of this Regulation, shall be deemed in violation of the Municipal Code and such violation shall be punishable under Section 1135.11. Each day of violation shall constitute a separate and distinct violation for as long as one (1) year with respect to alterations and for as long as two (2) years with respect to demolition. These periods correspond to those during which the Board may delay a proposed alteration or demolition.

**1170.18 SEVERABILITY.**

If any provision of this Chapter or the application thereof is held invalid, such invalidity shall not affect other provisions or applications of this Chapter which can be given effect without the invalid provision or application and to this end the provisions of this Chapter are hereby declared severable.

**1170.19 MINIMUM MAINTENANCE REQUIREMENT.**

The owner of a Landmark or contributing structure or any structure within the Downtown Overly District shall provide sufficient maintenance and upkeep for such structure to ensure its perpetuation and to prevent its destruction by deterioration, whether the building is vacant or occupied.

**1170.20 EXCLUSIONS.**

The following items are excluded from this Regulation:

- A) The removal/demolition of declared public nuisance (e.g. fire damaged buildings) that pose a threat to the health and safety of the general public.**
- B) Temporary repairs needed to prevent structural deterioration and decay following a natural disaster or other acts of nature recognized by the City of Mason.**
- C) Normal and ordinary maintenance functions not regulated elsewhere in this Chapter are excluded from this Regulation.**

SECTION 4.

CHAPTER 1189 Downtown Preservation District of TITLE SEVEN – Zoning General Provisions of the City of Mason Zoning Code and Subdivision Regulations is hereby repealed in its entirety.