

Demolition

Preface: This document communicates formal Design Guidelines, which are regulatory and enforced by law. It also offers supplemental information through an Introduction, Preservation Principles, Maintenance Tips, Appendices, photographs, illustrations, and captions. This supplemental material explains the concepts and intent underlying the Design Guidelines, and exemplifies or depicts how the Design Guidelines have been -- or might be -- applied in Clifton. All examples and depictions are meant to educate and illustrate, only. Examples deemed appropriate within one context may be deemed inappropriate for another. An applicant should consult with Landmarks staff regarding any questions about how to interpret these supplemental clauses, illustrations, and examples.

Introduction

If there is one core principle of a preservation district, it is to prevent the loss of its structures through demolition. That said, buildings in preservation districts sometimes present unique challenges for rehabilitation, adaptive reuse, and occasionally even continued habitation. All buildings require proper maintenance, and older buildings are particularly susceptible to deterioration. In the absence of a good roof or a few windows, the elements can do irreparable damage within a surprisingly short period of time. Abandoned buildings are especially subject to rapid deterioration and may attract vagrants or vandals who will, intentionally or not, accelerate the deterioration. The best way to prevent demolition is to keep buildings properly maintained and secured. But it is an unhappy reality that occasionally buildings deteriorate to the point that demolition becomes a consideration. **In all cases, there are only two legal ways to demolish a structure within the Clifton Preservation District:**

1. A property owner receives approval through the Landmarks Ordinance mandated ARC review process; or
2. An *Emergency Demolition Order* is issued by a Louisville Metro official.



The two historic homes above, formerly at 2011 (left) and 2019 Frankfort Ave. (right), were among the last structures demolished in Clifton before Landmarks protections commenced that would have preserved them. They were razed in 2003 to make way for the Clifton Lofts.

The typical Clifton homeowner will encounter the prospect of demolition when planning, for example, to remove an old rear porch to create a rear addition, or to remove an old outbuilding to build a new garage. Regardless of the reason, however, **any demolition planned in Clifton must be requested in advance, and must be reviewed and approved through the Landmarks Ordinance mandated ARC review process.**

The rationale for this **required review process** is that all historic districts are subject to “death by a thousand cuts” – seemingly small losses and degradations that will, over time, amount to significant and irreversible damage to the integrity and character of that district. This threat imperils both “primary structures” (main residential or business buildings) and “secondary structures” (e.g., garages, other out-buildings). The Landmarks Ordinance’s required review process reduces this threat by first casting a uniform protective shield around all of Clifton’s buildings. Then, if a property owner requests approval to demolish a particular structure, the required process will evaluate the extent to which that structure “reinforces the visual or physical integrity, historic interpretation, or historic character” of the Preservation District. A structure determined to contribute significantly to the District’s integrity is eligible for Landmarks Ordinance protection from demolition.

Whether or not a particular structure “contributes to the integrity of the district” is not always obvious or intuitive or actually documented in any Metro file. In fact, while some structures will acquire this so-called “contributing status” simply with the passage of time, the “contributing status” of **any** structure depends on numerous factors besides simply age. Only the Landmarks required review process, conducted by Landmarks staff and the Clifton ARC, can weigh and evaluate all these factors.



Demolition by Neglect is against the law – the Metro property maintenance code.

“Demolition by Neglect” is when a property owner does not comply with the Metro Property Maintenance code (Ordinance 156) by failing to provide proper maintenance over an extended period of time, and thus adds to the deteriorated condition of a building.

Metro’s demolition regulations try to thwart *demolition by neglect* by promoting the best kind of preservation -- maintaining property on a consistent basis, as regulated by Metro’s Property Maintenance laws (Ordinance Chapter 156). Demolition by neglect places the owner in violation of those laws, and subjects that owner to citations, fines, liens, or worse. An owner’s failure to properly maintain a structure will never be considered as a valid reason to request its demolition.

If the ARC denies a demolition request for any reason, the property owner can appeal to the Landmarks Commission for an Economic Hardship. Economic hardships are heard by the Landmarks Commission on appeal. Contact Landmarks staff for an appeals application and the process per the Landmarks Ordinance § 32.257 (L).

Apart from the Landmarks required review process, **the only other legal demolition authorization is an Emergency Demolition Order, issued by a Louisville Metro official.** For this to occur, the Metro official must determine the condition of the structure poses an imminent threat to life or property, and that it must be removed as an urgent matter of public safety. Such structures are jointly evaluated and documented by Landmarks Staff and Metro officials.



Only due to a safety threat posed by serious structural damage, such as that caused by a major house fire like this one on William St., will officials issue an Emergency Demolition Order.

Design Guidelines → **Please Note:** *“In a local preservation district, physical alterations or changes to the exterior of a building or property require review and approval by the Landmarks Commission in the form of a Certificate of Appropriateness, based on compliance with these Clifton-specific design guidelines, and pursuant to Louisville Metro Ordinance 32.250. Consultation with the Landmarks staff is encouraged to achieve a creative solution that complies with the intent of the guidelines. Rarely is a project pursued in this manner denied.”*

The Metro Landmarks Standard Design Guidelines for Economic Hardship Exemption and Guidelines for Demolition also apply to an application for a Certificate of Appropriateness for demolition within the Clifton Preservation District, and associated application for an economic hardship exemption, with the following exception: The Standard Design Guidelines for Demolition DE1-DE8 are replaced in their entirety with the following:

- DE1** Any structure in part or in whole 50 years old or older within the Clifton boundary should be preserved. The Landmarks staff will evaluate the demolition request. All demolition proposals must include photographic documentation by the property owner as part of the application submitted to Landmarks. Historic elements cannot be removed until after approval has been obtained.
- DE2** With approval, when demolishing a non-historic structure or addition, the existing non-historic building or addition should not be demolished in a manner that will threaten the structural integrity of any existing historic structure.
- DE3** With approval, when demolishing an addition to an historic structure, be mindful that a wall of the existing structure will be left exposed visually, and to the deteriorating effects of weather. Take steps to insure the structural integrity of this newly exposed wall.
- DE4** With approval, when demolishing an addition to an historic structure, a wall that was once an interior wall may be exposed. Remove the interior finishes and make the wall suitable to be an exterior wall that matches the historic exterior of the structure.
- DE5** With approval, when demolishing an addition to an historic structure, interior openings (such as door openings) will be revealed to the exterior. Retain evidence of exterior door, window openings, or architectural features not incorporated into the interior of the addition. Leave the window or door frame intact. Compatible exterior construction materials should be used.
- DE6** The approved removal of a non-historic structure or an addition to an historic structure will create a new land area as a result of their demolition. Take steps to grade and landscape according to the existing topography and landscaping of the historic property and to be consistent with the slope and grade of adjacent properties.
- DE7** The approved removal of an addition to an historic structure may change the look of the street-facing facade of the existing historic structure. Take measures to re-establish the street-facing wall through the use of low fences, walls, and/or vegetation.
- DE8** Where demolition of an historic structure has been approved, or in the event of an emergency Metro-ordered demolition, documentation of the structure to be demolished will be required. The staff or ARC may set the degree of documentation required according to several factors: primary vs. secondary structure, historic value, and historic contribution to the Clifton neighborhood. Documentation may be subject to the following requirements:
 1. Measured floor plans for the first and each additional story, and drawings of exterior elevations showing views of the front and one side. These drawings shall be drawn at the standard architectural scale of 1/4 or 1/8 inch per foot. Measurements should be accurate to the nearest 1/4 inch and should indicate rough openings. Representative examples of original trim and other finish details shall also be measured. Drawing shall be on acid-free paper and indicated original vs. added construction. Additions 50 years old or older shall be shown by dashed lines for exterior walls only. If a primary structure has been approved for demolition, the ARC may require the above. If this is the case, the applicant is advised to hire a professional to fulfill these requirements. If a secondary structure is approved for demolition, the ARC may amend these requirements to require less-stringent documentation (examples: property-owner supplied drawings, drawn by hand).
 2. Digital photographs showing: the physical relationship to surrounding resources (streetscape); each facade; typical exterior details (e.g., moldings, brackets, rafter ends, brick patterns); typical interior details (e.g., door/window surrounds, staircases, mantels); typical construction details where visible; exterior landscape features; and outbuildings. A contact sheet shall be printed from the digital files on archival paper and submitted (along with the digital files on acceptable electronic media) to the Metro Landmarks Staff. If a primary structure has been approved for demolition, the committee may require the above. If this is the case, the applicant is advised to hire a professional to fulfill these requirements. If a secondary structure is approved for demolition, the ARC may amend these requirements to require less-stringent documentation (examples: property-owner generated digital photographs in an acceptable electronic media).

Appendix

Considerations for Contributing vs. Non-contributing Status

(quoted from Landmarks Ordinance § 32.260, (E), (1) a – i [as of 2013])

- (1) In considering the designation of any neighborhood, area, property or structure in Louisville Metro as a local landmark, or district, the Commission shall apply the following criteria with respect to such structure, property or district:
 - (a) Its character, interest, or value as part of the development or heritage of Louisville Metro, Jefferson County, the Commonwealth, or the United States.
 - (b) Its exemplification of the historic, aesthetic, architectural, prehistoric or historic archaeological, educational, economic, or cultural heritage of Louisville Metro, Jefferson County, the Commonwealth, or the nation.
 - (c) Its location as a site of a significant historic event.
 - (d) Its identification with a person or persons who significantly contributed to the culture and development of Louisville Metro, Jefferson County, the Commonwealth, or the nation. (e) Its embodiment of distinguishing characteristics of an architectural type or specimen.
 - (f) Its identification as the work of an architect, landscape architect, or master builder whose individual work has influenced the development of Louisville Metro, Jefferson County, the Commonwealth, or the nation.
 - (g) Its embodiment of elements or architectural design, detail, materials, or craftsmanship which represents a significant architectural innovation.
 - (h) Its relationship to other distinctive areas which are eligible for preservation according to a plan based on an historic, cultural, or architectural motif.
 - (i) Its location or physical characteristics representing an established and familiar visual feature or which reinforce the physical continuity of a neighborhood, area, or place within Louisville Metro.

Economic Hardship Exemption and Guidelines for Demolition

(quoted from Landmarks Ordinance § 32.257, (L) [as of 2013])

- (L) An applicant whose application for demolition or new construction has been denied by the Committee, may request an economic hardship exemption from compliance with one or more of the guidelines which constituted the basis of the denial of the application pursuant to this paragraph. The request for the exemption shall be in writing and shall be filed with the Commission within ten days of the decision of the Committee. The Commission shall review the documentation and evidence presented before the Committee relevant to determining whether the applicant qualifies for an economic hardship exemption and such relevant evidence presented to it by the applicant or other interested parties. The Commission shall conduct a public hearing on the proposed hardship exemption. Notice of the hearing shall be sent to the applicant and other parties of record, by first class mail, at least seven days prior to the date of the hearing. At the hearing, the Commission shall receive information to supplement the record concerning whether the applicant qualifies for an economic hardship exemption from one or more of the guidelines applicable to the application. The Commission may require the applicant to submit findings from one or more persons determined by the Commission to have expertise in real estate and development who are knowledgeable in real estate economics in general and, more specifically in the economics of renovation, redevelopment and rehabilitation, to review the documentation submitted in accordance with § 32.257(B)(2) and this section. Within 60 days of the first regular Commission meeting after the applicant's request is filed, the Commission shall render a decision either granting or denying the applicant's request for an economic hardship exemption from compliance with one or more of the guidelines. The decision shall be based upon a written findings of fact. The applicant shall have the burden of showing that the application qualifies for an economic hardship exemption. The Commission shall grant an economic hardship exemption only if it finds that the applicant has demonstrated through a preponderance of the evidence that:
 - (1) With respect to an application involving a non-income producing structure or property, the property or structure cannot be put to any reasonable beneficial use according to the guidelines adopted by the Commission for economic hardship without the approval of the application.
 - (2) With respect to an application involving an income-producing structure or property, the applicant cannot obtain any reasonable return from the property or structure without the approval of the application.