

NATIONAL REGISTER INFORMATION SUMMARY

Compiled by the National Register

Rights and Responsibilities of Owners of National Register Properties

The National Register is the Federal Government's Official list of historic properties worthy of preservation. Listing in the National Register provides recognition of the importance of a historic property or archaeological site, but does not place any obligations or legal restriction on the use or disposition of the property by the owner. Owners are not required to show their buildings to tourists or to provide access to their sites as a result of the listing. In fact, private owners may sell or alter their properties as they see fit; of course National Register listing does not relieve owners from responsibility to abide by local building codes and planning and zoning requirements. While owners have the freedom to change their property, some unsympathetic alterations may result in the removal of the property from the National Register of Historic Places.

Although owners are not required to seek the prior approval of the Kentucky Heritage Council or the National Park Service for any planned changes in the appearance or use of their properties, owners are encouraged to consult with the Council when planning major changes in order to be advised about appropriate restoration or conservation practices, about tax incentives for rehabilitation of income-producing properties or about other preservation treatments described below:

Use of the National Register by Federal Agencies

The National Register is used in the following ways under Federal law:

- Eligibility for Federal tax provisions. If a property is listed on the National Register, certain Federal Tax provisions may apply. The Tax Reform Act of 1986 revises the historic preservation tax incentives authorized by Congress in the Tax Reform Act of 1976, the Revenue Act of 1978, the Tax Treatment Extension Act of 1980, the Economic Recovery Tax Act of 1981, and the Tax Reform Act of 1984, and as of January 1, 1987, provides only a 20 percent investment tax credit with a full adjustment to basis for rehabilitating historic commercial, industrial, and rental residential buildings. The former 15 percent and 20 percent Investment Tax Credits (ITC's) for non-certified rehabilitations of older commercial buildings are combined into a single 10 percent ITC for commercial or industrial buildings built before 1936 but cannot be used for buildings listed in the National Register. The Tax Treatment Extension Act of 1980 provides Federal tax deductions for charitable contributions for conservation purposes of partial interests in historically important land areas or structures. Whether these provisions are advantageous to a property owner is dependent upon the particular circumstances of the property and the owner. Because tax aspects outlined above are complex, individuals should consult legal counsel or the appropriate local Internal Revenue Service Office for assistance in determining the tax consequences of the above provisions. For further information, please refer to 36 CFR 67.
- Consideration in planning for Federal, federally licensed, and federally assisted projects. Section 106 of the National Historic Preservation Act of 1966 requires that Federal agencies allow the Advisory Council on Historic Preservation an opportunity to comment on all projects affecting historic properties listed in the National Register. For further information, please refer to 36 CFR 800.
- Consideration in issuing a surface coal-mining permit. In accordance with the Surface Mining and Control Act of 1977, there must be consideration of historic values in the decision to issue a surface coal-mining permit where coal is located. For further information, please refer to 30 CFR 700 et seq.
- Qualification for Federal grants for historic preservation when funds are available. Presently Federal Funding is unavailable. Contact the State Historic Preservation Office to determine if grants are currently available.

Owner Objection to National Register Listing

Owners of private properties nominated to the National Register of Historic Places must be given an opportunity to concur with or object to listing in accordance with the National Historic Preservation Act Amendments of 1980 and Federal Regulations 36 CFR 60. Any owner or partial owner of private property who chooses to object to listing is required to submit to the State Historic Preservation Officer a notarized statement certifying that the party is the sole or partial owner of the private property, as appropriate, and objects to the listing. In the case of a nominated district, if a majority of the owners object to listing, the district will not be listed. Each owner or partial owner of private property has one vote regardless of how many properties or what portion of one property that party owns. If the individual property or district cannot be listed because a majority of owners objects prior to the submission of a nomination by the State Historic Preservation Officer to the Keeper of the National Register, the nomination form will be forwarded for a determination of eligibility for listing in the National Register. If the individual property or district is then determined eligible for listing, although not formally listed, none of the tax advantages will apply, but the same preservation protection will be enacted as if the property were listed. That is, federal agencies will be required to allow the Advisory Council on Historic Preservation an opportunity to comment before the agency may fund, license, or assist a project which will affect the property.

If an owner chooses to object to the listing of his property, the notarized objection must be submitted to Craig Potts, Executive Director, Kentucky Heritage Council & State Historic Preservation Officer, 410 High Street, Frankfort, KY 40601, by the Review Board date indicated in the cover letter.

HOW DOES LISTING ON THE NATIONAL REGISTER AFFECT OWNERS?

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What are the benefits?

- **Planning:** The National Register works as a planning tool. It helps project planners know which properties are most valuable to a community, so projects can be designed with minimal impact on those properties. It helps developers identify which parts of a building or property are most important to a community's identity and sense of value. It helps home owners considering changes for their property to know which parts of their property most vitally define that home's value.
- **Protection:** When Federal agencies plan projects, they must consider the historic value of properties listed in, and even eligible for, the National Register. While the Federal agency might consider the property historically valuable, the property ultimately still might be demolished or adversely impacted.
- **Economic:** National Register listing provides the opportunity for owners to receive back a portion of their rehabilitation costs. An owner rehabilitating *depreciable* property might get back as much as 40% of their rehab costs—20% in the form of an Investment Tax Credit (federal) and another 20% in the form of a Home-owner's Tax Credit (state). For non-depreciable (*private*) property, the Home-owner's Tax Credit can return as much as 30% of the rehab costs.
- **Educational:** National Register listing often provides the most thorough record and history on a property. The form explains how the property is significant to the locality, to the state, or to the nation. The form tells how the physical character of the property reveals our significant past.
- **Civic:** The National Register nomination form illuminates ways that the buildings and landscape surrounding us shape our experience. The forms detail our valuable places, give meaning to our past, and help clarify the identity of our shared experience in particular communities.
- **Honor:** Many people feel additional pride in their place with the listing on the National Register.

What National Register listing does NOT mean

- Owners' property rights do NOT change when the property is listed on the National Register
- Owners are NOT responsible to maintain their listed house in a historic condition
- Owners do NOT have to open their house to the public
- Owners do NOT have to seek the advice of the Kentucky Heritage Council in planning changes
- Listing does NOT prohibit owners from making changes to their National Register-listed building
- Owners are NOT prohibited from demolishing their National Register-listed building
- Listing a property does NOT reduce the current or a subsequent owner's development options
- Listing on the Register currently does NOT result in grants to private owners to fix their building; a grant program did exist until the early 1980s for private owners of listed buildings
- Listing does NOT increase or decrease property taxes, nor affect the property's assessed value
- Listing does NOT require any governmental agency to maintain or preserve the property
- Listing does NOT require any governmental agency to purchase the property when the owner decides to sell it
- The Kentucky Heritage Council can NOT dictate your plans for changing your house
- Register listing does NOT automatically subject the property to any local preservation ordinance
- Listing in the Register does NOT prevent a city, county, state, or the federal government from ultimately purchasing the property through eminent domain
- A property, once listed, can NOT be removed from the Register by simple owner request. Properties can only be removed by a petition made by the SHPO, citing one of 4 reasons: loss of the historic integrity, error in professional judgment, procedural error, or new information.

For more information, you can visit the following web sites:

National Register of Historic Places: <https://www.nps.gov/subjects/nationalregister/faqs.htm>

Kentucky Heritage Council: <https://heritage.ky.gov/historic-places/national-register/Pages/overview.aspx>

Contact the KHC's National Register Coordinator, Marty Perry, at 502-892-3609 or marty.perry@ky.gov