

CHAPTER 1349

Historic Districts

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1349.01 PURPOSE.

The purposes of this chapter are:

(a) To establish procedures whereby certain areas, places, sites, buildings, structures, objects and works of art shall be allowed that measure of protection afforded by a thorough study of alternatives to incompatible alterations or demolition before such acts are performed, so that the following objectives are reached:

(1) To maintain and enhance the distinctive character of historical buildings and historical areas in the City.

(2) To safeguard the architectural integrity of the City's listed properties and historic resources within designated districts.

(3) To safeguard the heritage of the City by preserving areas, places, sites, buildings, structures, objects and works of art which reflect elements of City's cultural, social, economic, political or architectural heritage.

(4) To seek alternatives to demolition or incompatible alterations within designated areas and to listed properties before such acts are performed.

(5) To afford the widest possible scope of continuing vitality through private renewal and architectural creativity within appropriate controls and standards.

(6) To encourage development of vacant properties in accordance with the character of the designated districts and listed properties.

(b) To contribute to the economic, recreational, cultural and educational development of the City by:

(1) Protecting and enhancing the City's attractions to prospective residents, tourists and visitors.

(2) Providing support and stimulus to business and industry.

(3) Strengthening the economy of the City.

(4) Stabilizing and improving property value.

(5) Fostering civic pride in the beauty and notable accomplishments of the past.

(6) Facilitating the reinvestment in and revitalization of certain older districts and neighborhoods.

(7) Promoting the use and preservation of historic sites and structures for the education and general welfare of the people of Massillon.

(Ord. 25-1987. Passed 3-2-87.)

1349.02 DEFINITIONS.

The following definitions shall apply only to the provisions of this chapter:

(a) "Alter" or "alteration" means any material change in the external architectural feature(s) of any property, including a change or rearrangement in the structural parts or building service equipment or an enlargement, whether by extending on a side or by increasing height. For the purposes of this chapter "alteration" includes a change in design, color, texture, material or exterior architectural feature. Ordinary maintenance to correct any deterioration or damage to a structure and to restore the structure to its condition prior to such deterioration or damage is excluded from the definition of "alteration", provided such work does not involve a change in design, color, texture, material or exterior architectural feature.

(b) "Applicant" means any owner, owners, association, partnership or corporation who applies for a Certificate of Approval.

(c) "Commission" means the Historic Preservation Commission of Massillon.

(d) "Demolish" or "demolition" means the razing or removal, in whole or in part, of any structure.

(e) "Exterior architectural feature" means the architectural style, general design and general arrangement of the exterior of a building or structure including but not limited to windows, doors, porches, storefronts, signage, cornices, siding materials, decorative trim, and other fixtures appurtenant to the exterior of the building.

(f) "Historic District" means any area established by Council and designated by this chapter for the purpose of maintaining and fostering a distinctive historical, architectural, cultural or environmental character.

(g) "Listed Property" means any property which has special character, historical, aesthetic or architectural value as part of the heritage, development or cultural characteristics of the City or the United States and which has been designated as a Listed Property pursuant to the provisions of this chapter.

(h) "Member" means any member of the Historic Preservation Commission of Massillon.

(i) "Owner" means the owner of record and the term shall include the plural as well as the singular.

(j) "Reconstruction" means the reproducing by new construction the exact form and detail of a vanished structure, or a part thereof, as it appeared at a specific period of time.

(k) "Structure" means any building and shall be constructed as if followed by the words "or part thereof".

(l) "Substantial hardship" means a condition unique to the property under consideration and a condition under which an action by the Commission would force the applicant to suffer practical difficulty and denial of the reasonable use of the property.

(Ord. 25-1987. Passed 3-2-87.)

137.05 HISTORIC PRESERVATION COMMISSION.

(a) The Historic Design Review Board, having been previously established by City ordinance, is hereby renamed the Historic Preservation Commission. The Commission shall consist of nine members. The Historic Preservation Commission members should have to the highest extent possible a recognized knowledge of and a known interest in historic preservation together with a determination to work for the overall improvement of the quality of Massillon's physical environment. At least two members of the Commission shall be preservation-related professional members from the fields of architecture, architectural history, history, archeology, planning or a related discipline. All members shall be appointed by the Mayor with the consent of Council based on recommendations from the following organizations: Three members shall be recommended for appointment by the Massillon Museum. Two members shall be recommended for appointment by the City Planning Commissions. One member shall be recommended for appointment by the Massillon Chamber of Commerce. Two at-large members shall be appointed by the Mayor. One member of City Council shall be designated by Council to serve as an ex-officio member of the Commission. All members shall serve two-year terms; however, terms may be staggered. One member of the City's Planning Department staff and one member of the City Building Department, shall serve as City Liaison to the Commission in an advisory, non-voting capacity. Terms of office shall be staggered, except that two of the members appointed by the Mayor shall serve an initial term of one year. All commission members either shall be a resident of the City of Massillon or shall own a business located within the City limits. Up to a maximum of three commission members may be non-residents of the City who own a business located within the City limits, however, at least six members of the Commission shall be residents of the City. All members shall be residents of the City. All members of the Commission shall serve without compensation from the City. The Mayor and Council shall have the power to remove any member of the Commission for just cause. Vacancies caused by death, resignation or otherwise shall be filled for the unexpired term in the same manner as original appointments are made. Vacancies shall be filled within sixty days unless extenuating circumstances require a longer period.

(Ord. 150-2017. Passed 12-4-17.)

(b) The Commission shall elect a Chairman, a Vice-Chairman to serve in the absence of the Chairman, and a Secretary at its first meeting after November 1, of each year. The Commission shall adopt its own rules of procedure, including conflict of interest prohibitions, which shall be made available for public inspection. The rules of procedure shall provide for at least four regular meetings per year and additional special meetings which will be held in a public place, advertised in advance and made public. All review decisions will be made in a public forum, with applicants notified of meetings and advised of decisions. Written minutes of actions and decisions of the Commission shall be made available for public inspection.

(Ord. 25-1987. Passed 3-2-87.)

1349.04 DUTIES OF THE HISTORIC PRESERVATION COMMISSION.

The duties of the Historic Preservation Commission are as follows:

- (a) To improve the quality of life in the City by striving to further and achieve the spirit and purpose of this chapter.
- (b) To act in an advisory role to other officials and departments of local government regarding the protection of local cultural properties.
- (c) To act as liaison on behalf of the local government to individuals and organizations concerned with historic preservation.
- (d) To work for the continuing education of the residents of the City with respect to the architectural and historic heritage of the City, and historic preservation issues and concerns.
- (e) To employ technical experts as may be required to perform its duties within the appropriations made available therefor and to perform such other related tasks within its capabilities as may be required by Council.
- (f) To accept grants, gifts and bequests, and to make application for, receive and administer grants and funds from governmental and private entities consistent with the purposes of this chapter.
- (g) To review proposed National Register nominations for properties within its jurisdiction in accordance with Ohio CLG guidelines. Upon written agreement between the City, and the Ohio Historic Preservation Office, the Historic Preservation Commission of Massillon may substitute review procedure which expedite the National Register of Historic Places review process.
- (h) To recommend to the City Planning Commission and Council legislation that would serve to beautify, preserve, restore and develop the City or that would result in additions or revisions to this chapter.
- (i) To conduct or cause to be conducted a continuing survey of cultural resources in the community, including all buildings, structures, sites, objects and areas of architectural, historic or aesthetic interest, according to survey guidelines established by the Ohio Historic Preservation Office.
- (j) To conduct or encourage members to attend educational sessions at least once a year pertaining to the function of the Commission or relating to specific historic preservation issues.
- (k) Based upon information available or presented to it, to make recommendations for designation of listed properties and historic districts to the City Planning Commission and Council.
- (l) To keep a current register of all listed properties and provide the City Engineer and the Building Department with a current copy thereof, showing any additions thereto. This register shall be made available to the public and shall be located at the Building Department, City Hall, 100 City Hall Street, S.E., Massillon, Ohio.
- (m) To prepare an Annual Report documenting the Commission's activities, cases, decisions, special projects and membership that will be available for public inspection.
- (n) To conduct hearings to consider or determine any matters related to Historic District or Listed Property designations within the corporate boundaries of the City which shall be scheduled by a vote of the membership at regular or special meetings. Parliamentary procedures shall be used during any official hearing.
- (o) To review and act upon all applications for "Certificates of Approval" as required by this chapter and to establish criteria, rules and regulations not otherwise included in this chapter for evaluating applications for Certificates of Approval submitted to it.
- (p) To use written guidelines in making decisions on requests for permits for alterations, additions to or demolition of listed properties and buildings within Historic Districts.
- (q) To consider whether the failure to issue a certificate of approval will involve a "substantial hardship" to the

applicant and whether the certificate may be issued without substantial detriment to the public welfare and without substantial derogation from the interest and purposes stated herein.

(Ord. 25-87. Passed 3-2-87.)

1349.05 DESIGNATION OF HISTORIC DISTRICT OR LISTED PROPERTY.

(a) In considering the designation of any area, place, site, building, structure, object or work of art, in the City as a Historic District or Listed Property, the Historic Preservation Commission, the Planning Commission and Council shall apply the following criteria with respect to each property. One or more of the following must apply:

- (1) The character, interest or value as part of the heritage of the City, the State, or the United States.
- (2) The location as a site of a significant historic event.
- (3) The identification with a person or persons who significantly contributed to the historic development of the City.
- (4) Its exemplification of the cultural, economic, social, archeological, or historic heritage of the City.
- (5) The portrayal of the environment of a group of people in an era of history characterized by a distinctive architectural style.
- (6) The embodiment of a distinguishing historic characteristic of an architectural type of specimen.
- (7) Its identification as the work of an architect or master builder whose individual work has influenced the development of the City.
- (8) Its embodiment of elements of architectural design, detail, materials or craftsmanship which represent a significant architectural or technological innovation.
- (9) Its unique location or singular physical characteristic representing an established and familiar visual feature of a neighborhood, community or the City.
- (10) Its having yielded or its likelihood of yielding information important to the understanding or pre-history or history.

In addition to meeting at least one of the above criteria, proposed Historic Districts must also meet the following criteria in order to be designated:

- (1) The proposed area must be enclosed by boundaries, such as streets, freeways, railroads, rivers or open space, which set the area off in relation to its surroundings.
- (2) The area within the proposed boundaries must have a high degree of historic integrity, without excessive loss of architectural or historic character.
- (3) The area within the proposed boundaries must have an internal historic cohesiveness in the sense of a shared common history of its inhabitants, historical development according to a master plan, a shared architectural style or design, or a body of architecture illustrating the evolution of architectural styles over a period of time.

(b) The Commission shall notify the owners of any proposal to list his property or designate a Historic District which encompasses his property either by certified mail or personal delivery.

(c) Whenever possible, the Commission shall secure the written consent of the property owners for a listing of property. Upon receipt of such consent, the recommendation for listing shall be sent to Council for submission to the Planning Commission for its review and recommendation. Thereafter, Council shall hold a public hearing on any such proposed listing and following such hearing, Council may list the area, place, site, building, structure, object or work of art as a listed property by majority vote.

(d) In the event that the owners of the properties shall refuse or decline to give written consent to the proposed listing of property, and the Commission feels it is of considerable importance to the community that the property be listed, and in the designation of all Historic Districts the following procedure shall be followed:

- (1) The Commission shall schedule a public hearing on the question of the proposed designation or listing, setting forth a date, time and place and causing written notice to be given to the owner, or in the case of a large Historic District (fifty or more properties) where individual notices may not be practical, notice to be given through existing neighborhood or other organizations. The Commission shall cause a legal notice to be published in a newspaper of general circulation in the City setting forth the nature of the hearing, the property or district involved and the date, time and place of the scheduled public hearing.
- (2) The Commission shall conduct the public hearing and shall provide a reasonable opportunity for all interested parties to express their opinions. Within fifteen days after the hearing, the Commission shall set forth in its recommendations such findings of fact which constitute the basis for its decision and shall transmit such recommendation concerning the proposed designation or listing to Council, which shall follow the review and action procedures set forth in Section 1349.05(c), except as provided otherwise herein.
- (3) Council shall give due consideration to the findings and recommendations of the Commission and the Planning Commission, as well as such views as may have been expressed by persons participating in the hearing before such Commission, in making its determination with respect to the proposed designation. The Planning Commission and Council shall follow review and action procedures established in this chapter.
- (4) If Council approves the listing or Historic District, the Commission shall notify the owner(s) of such decision. In the event the proposed designation is disapproved by Council, the Commission may, after a period of sixty days, resubmit the proposal to Council for reconsideration.

(Ord. 25-1987. Passed 3-2-87.)

1349.06 LIMITATIONS ON ISSUANCE OF BUILDING AND DEMOLITION PERMITS.

No construction, reconstruction, alteration or demolition of any structure or significant exterior architectural feature thereof in any designated Historic District or of any Listed Property shall be undertaken prior to obtaining a Certificate of Approval from the Commission and a permit from the Building Department, if applicable. No permit shall be issued by the Building Department for the construction, reconstruction, alteration or demolition of any area, place, site, building, structure, object or work of art within a designated Historic District or Listed Property, except in cases coming under the exclusions in this chapter, unless the application for such permit is

approved by the Historic Preservation Commission through the issuance of a Certificate of Approval in the manner prescribed herein: (Ord. 25-1987. Passed 3-2-87.)

1349.07 CERTIFICATE OF APPROVAL.

(a) When the owner of a property within a Historic District or owner of a Listed Property intends to construct, reconstruct, alter or demolish any portion of a structure within the District or of a Listed Property, he shall first apply for and secure a Certificate of Approval from the Commission. The application for a Certificate of Approval shall be deposited with the City's Historic Preservation Office, together with such plans, specifications, and other material as the Commission may from time to time prescribe.

(b) Within thirty days, the Commission shall consider the applications, plans and specifications, and determine:

(1) Whether any "exterior architectural feature" is involved; and

(2) Whether a Certificate of Approval shall be issued or denied. If the Commission determines that no architectural feature is involved, it shall cause the secretary to endorse the Certificate of Approval and return the application, plans and specifications to the applicant.

(c) In the event that the Commission finds that an architectural feature is involved, the Commission shall determine whether the proposed construction, reconstruction, alteration or demolition is appropriate or whether it has an adverse effect upon the purposes of this chapter, the Historic District or Listed Property. In making such determination, the Commission shall refer to the Secretary of the Interior's Standards for Rehabilitation, and to the design guidelines adopted by the Commission. In the case of archeological properties, the Commission shall refer to the Advisory Council on Historic Preservation's Treatment of Archeological Properties; A Handbook.

(d) The Commission may require any person applying for a Certificate of Approval or request any person whose interests appear adverse to those of the applicant, to file with the Commission prior to any hearing or determination, information concerning the applicant's intentions, or such adverse person's interests or intentions.

(e) If the proposed construction, reconstruction, alteration or demolition is determined to have no adverse effect on the Historic District or Listed Property, and does not violate the spirit and purpose of these preservation regulations, then the Commission secretary shall issue the Certificate of Approval.

(f) If the Commission determines that the proposed construction, reconstruction, alteration or demolition will have an adverse effect on the Historic District or Listed Property, and does violate the spirit and purposes of these preservation regulations, then the Commission shall deny issuance of the Certificate of Approval.

(g) In the event that the Commission determines within the thirty day review period that a Certificate of Approval shall not be issued, it shall forthwith state in its records reasons for such determination and may include recommendations respecting the proposed construction, reconstruction, alteration, or demolition of any area, place, building, structure, site, object or work of art. The secretary of the Commission shall forthwith notify the applicant of such determination and transmit to him a certified copy of the reasons for denial and recommendations, if any, of the Commission.

(h) Upon denying a Certificate of Approval, the Commission shall, impose a waiting period of at least thirty days, but not to exceed six months from the date of disapproval, during which time the Commission shall negotiate with the owner of the property in order to develop a compromise proposal acceptable to both. The first meeting between Commission and applicant shall be held within thirty days from the date of disapproval. If a compromise proposal is accepted by both parties, the Commission may henceforth issue a Certificate of Approval.

(i) In the case of denial of a Certificate of Approval for demolition:

(1) The Commission and applicant shall undertake meaningful and continuing discussion during the waiting period in order to find a means of preserving the property. The Commission and applicant shall investigate the feasibility of all means of preserving the listed property. If the Commission and applicant do not agree on a means of preserving the structure at the initial meeting then they must continue to undertake meaningful and continuing discussions for the purpose of finding a method of saving the structure, and such good faith meetings shall be held at least every forty-five days after the initial meeting.

(2) If the applicant fails to meet with the Commission in good faith, in the time specified, then the Commission's denial of the application will stand.

(3) If, after holding such good faith meeting in the waiting period specified by the Commission, the Commission determines that failure to issue a Certificate of Approval 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 derogation from the purposes of this chapter, then and in such event, the secretary of the Commission shall issue a Certificate of Approval for such proposed demolition.

(4) If, after holding such good faith meetings in the waiting period specified by the Commission, no alternative property use is developed or no offer to save the structure is made by the applicant, the Commission or a third party, then the applicant may appeal the decision to Council. Council may affirm or reverse the Commission's decision. If Council affirms the decision, the denial of Certificate of Approval stands.

(j) In the case of denial of a Certificate of Approval for construction, reconstruction, or alteration:

(1) The Commission and the applicant shall undertake meaningful and continuing discussion during the waiting period in order to find an alternative to incompatible new construction, reconstruction, or alteration within a Historic District or to a Listed Property. If the Commission and applicant do not agree on an alternative solution at the initial meeting, then they must continue to undertake meaningful discussions for the purpose of seeking a compromise solution, and such good faith meetings shall be held at least forty-five days after the initial meeting.

(2) If the applicant fails to meet with the Commission in good faith in the time specified, then the Commission's denial of the application will stand.

(3) If, after holding such good faith meeting in the waiting period specified by the Commission, the Commission determines that failure to issue a Certificate of Approval 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 derogation from the purposes of this chapter, then and in such event, the secretary of the Commission shall issue a Certificate of Approval for such proposed construction, reconstruction, or alteration.

(4) If, after holding such good faith meetings in the waiting period specified by the Commission, no alternative solution to incompatible construction, reconstruction, or alteration is reached then the applicant may appeal the decision to Council. Council may affirm or reverse the Commission's decision. If Council affirms the decision, the denial of Certificate of Approval will stand.

(Ord. 25-1987. Passed 3-2-87.)

1349.08 PERMITTED USES.

The uses permitted and conditionally permitted in any designated Historic District shall be those included in the corresponding zoning district as indicated on the Official Zoning Map of the City.

(Ord. 25-1987. Passed 3-2-87.)

1349.99 PENALTY.

(a) Whoever constructs, reconstructs, alters, changes or demolishes any exterior feature of any area, place, building, structure, object or work of art in violation of these regulations shall be punished under Section 1141.99.

(b) In the event any change is made in any property which has been designated a Listed Property or which is situated in a Historic District, the City may institute appropriate proceedings to prevent such unlawful change.

(Ord. 25-1987. Passed 3-2-87.)