

CHAPTER 1146
Historic Preservation Regulations

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CROSS REFERENCES

- Architectural Board of Review - see CHTR. Art. VII, Sec. 9; ADM. Ch. 137
- Plans and drawings - see BLDG. Ch. 1305
- Permits - see BLDG. Ch. 1307
- Moving buildings - see BLDG. Ch. 1337

1146.01 INTENT.

In order to maintain and enhance the distinctive historic character of the Municipality these regulations are established to achieve, among others, the following objectives:

- (a) To foster a sense of community identification; and civic pride by preserving structures which reflect periods and events in the history of the community and its region;
- (b) To stimulate the local economy by encouraging investment in historic resources and protecting the community assets which support current retail activity;
- (c) To protect property values within the Municipality by preventing environmental changes which diminish the area's unique historic character;
- (d) To recognize the importance of preserving structures that contribute to the traditional village land use pattern; and
- (e) To avoid demolition of or incompatible alterations to historic structures.

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1146.02 APPLICABILITY.

(a) No building or other structure in the Municipality shall be erected, altered in exterior construction or appearance, enlarged, moved or demolished unless such action complies with the provisions of this chapter. Applicability of these provisions is limited to structures of historic significance and sites in proximity to such structures. See Section 1146.05 for an explanation of terms.

(b) The painting of buildings and structures shall not be governed by these regulations. For the purposes of this Chapter a structure shall include building or a portion thereof.

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1146.03 ADMINISTRATIVE PROCEDURES.

The following procedures are established to govern the processing of applications for building permits and other municipal authorizations in accordance with the regulations of this chapter.

(a) Mandatory Referral.

- (1) As directed by Section 1109.05(b)(1), all requests for building permits shall be referred to the Architectural Board of Review for a determination of compliance with this Chapter. The Architectural Board of Review may obtain the assistance of an expert in historic architecture to assist it in determining whether a proposed project satisfies the requirements of this chapter.
- (2) All requests for demolition of a structure or portion of a structure which is more than fifty (50) years old shall be accompanied by a deposit of five hundred dollars (\$500.00). All requests to make an addition to or alteration of a structure or portion of a structure which is more than fifty (50) years old shall be accompanied by a deposit of three hundred dollars (\$300.00). As provided below, the request shall be referred to the Architectural Board of Review with a recommendation from the Administration as to whether or not the structure is a Historically Significant Property. The Architectural Board of Review shall apply the standards set forth in Section 1146.06 hereof to determine whether or not demolition is permitted.

- A. Advice of Expert on Historic Significance. When an applicant requests a permit to demolish a structure or portion thereof that is more than fifty (50) years old, the Administrator shall engage the assistance of an expert in the field of the history of architecture, who shall make a recommendation to the Architectural Board of Review regarding whether or not the

structure is an Historically Significant Property, as defined by Section 1146.05 of this Chapter. The expert shall be paid out of the deposit made pursuant to paragraph (a)(2) hereof, and the remaining funds from such deposit, if any, shall be returned to the applicant.

- B. Advice of Expert on Economic Feasibility. If, in reviewing a request for demolition, a majority of the Architectural Board of Review, by motion, requests the advice of an expert to assist in the analysis of determining whether or not the repair, rehabilitation or restoration of an Historically Significant Property is Economically Feasible, the Administrator shall determine whether the Municipality should engage an expert at Municipality expense, to provide such advice.
- C. Advice of Expert on Additions and Alterations. When an applicant requests a permit to add to, or in any material way (other than painting) alter the exterior of, any structure that is more than fifty (50) but less than one hundred (100) years old, the Administrator shall engage the assistance of an expert in the field of the history of architecture, who shall make a recommendation to the Architectural Board of Review regarding whether or not the structure is a Historically Significant Property, as defined by Section 1146.05 of this Chapter, and whether the proposed addition or alteration is Compatible with the existing structure and other historic structures in proximity thereto. When the structure, or a portion thereof has been determined by the Municipality to be at least 100 years old, it shall be presumed to be a Historically Significant Property and the advice of an expert shall not be required unless the Administrator needs such assistance to determine the age of the structure, or a portion thereof. The Administrator shall obtain the expert opinion to determine if the proposed material change will have an adverse effect on the Historical Significance of the structure. The expert shall be paid out of the deposit made pursuant to paragraph (a)(2) hereof, and the remaining funds from such deposit shall be returned to the applicant.
- (3) Where an applicant for a building permit proposes to change the existing grade of a lot by more than three (3) inches, the Architectural Board of Review shall review, in accordance with Section 1109.05 and this Chapter 1146 of this Planning and Zoning Code, such change to ensure that the proposed building elevations and site grading are compatible with contiguous property and that the proposed building meets the standards set forth in Section 1115.04, failing which the Architectural Review Board shall deny approval of such grade change.
- (b) Approval/Disapproval. The Architectural Board of Review shall either approve, approve with modification or disapprove the application in accordance with the review and approval procedures set forth in Section 1109.05. In conjunction with a motion to grant the request of the applicant, the members of the Architectural Board of Review shall identify facts which have been presented to the Architectural Board of Review which the members believe are supportive of their decision in the case. It is not sufficient for the Architectural Board of Review to identify the ultimate fact to be determined (e.g., Compatibility or Historic Significance), but the members of the Architectural Board of Review, when stating or voting on the motion to grant the request of the applicant(s), shall identify the specific facts presented in the matter before them which cause them to reach their conclusion and support their vote; if a member states facts with which a second member agrees, the second member may indicate so, generally, and/or may distinguish his or her findings relative to facts previously stated. The facts identified and agreed upon by a majority of the Architectural Board of Review shall be deemed the Conclusions of Fact of the Architectural Board of Review; provided that if no majority vote is obtained, the motion shall be deemed defeated and facts adopted by those who voted in opposition to the motion shall be deemed the Conclusions of Fact of the Architectural Board of Review.
- (c) Notifications. The Architectural Board of Review shall notify the applicant in writing of the time and location of its meeting. Subsequent to that meeting, the Architectural Board of Review shall notify the applicant in writing of its determination, stating reasons for a determination of disapproval.
- (d) Appeal. Any interested party may appeal the determination of the Architectural Board of Review to the Board of Zoning Appeals, in accordance with the terms of Chapter 1111 of the Codified Ordinances.
- (e) Mandatory Stay of Demolition. No permit to demolish shall be issued by the Administrator for thirty (30) days following the final administrative adjudication by the Municipality, and in the event the appellate court(s) reviewing the matter issue a stay, no demolition permit shall be issued pending the final outcome of the administrative appeal.

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In its review of applications, the Architectural Board of Review shall:

- (a) Consider the historical and architectural nature of existing buildings, signs and structures within the Municipality and the compatibility of proposed changes or proposed new buildings, signs and structures with such existing buildings, signs and structures;
- (b) Consider the design standards of Section 1146.08; and
- (c) Follow the guidelines set forth below:
 - (1) Preservation of features. The distinguishing original qualities or character of a Historically Significant Property shall not be destroyed. Removal or alteration of historic material or distinctive architectural features shall be avoided.
 - (2) Replacement of features. Consistent with the concept of responsible property maintenance, deteriorated or damaged architectural features shall be repaired rather than replaced. In the event that the Architectural Board of Review determines that replacement of architectural features on a Historically Significant Property is necessary, the new material should closely match the material being replaced in composition, design, color, texture and other visual qualities.
 - (3) Compatibility. Alterations, additions and new development shall be compatible in scale, material and character with the design of the subject property and any structure more than fifty (50) years old in Proximity to the subject property. New structures may be constructed in accordance with a different architectural style than Historically Significant Properties.
 - (4) Contemporary design. All structures shall be recognized as products of their own time. Alterations, additions and new development which have no historical basis and which seek to create an earlier appearance shall not be required. Conversely, compatible contemporary design shall not be prohibited or discouraged except where such design would clearly detract from the architectural unity of an ensemble or group of Historically Significant Properties.
 - (5) Cleaning. The surface cleaning of Historically Significant Property shall be undertaken by the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be permitted.
 - (6) Accessory structures. Fences, walkways, street lights, and other accessory structures located in Proximity to structures more than (50) years old shall be compatible in design with the character of such properties.
 - (7) Signs. In addition to meeting the requirements of Chapter 1143, signs located on or in proximity to Historically Significant Properties shall be compatible in color, material, placement and character with the architectural style of such Properties.
- (d) Apply the following burdens of proof when evaluating applications under this Chapter:
 - (1) Any person asserting that a structure is an Historically Significant Property bears the burden of proving the assertion by clear and convincing evidence; provided, that any structure which is more than one hundred (100) years old shall be presumed to be an Historically Significant Property, and any party asserting that such structure is not a Historically Significant Property shall bear the burden of proving the same by clear and convincing evidence.
 - (2) If new construction is proposed, the design of the new construction shall be permitted unless it is proven, by a preponderance of the evidence, that the new building is not compatible with any structure more than fifty (50) years old that is in Proximity to the proposed new building. Nothing herein shall limit the authority of the Architectural Board of Review to require a property owner to adhere to proper architectural principles in the design, use of materials, finished grade lines and orientation of the construction of the new building or to make recommendations to the applicant regarding the proposed design.
 - (3) If an addition to, or exterior alteration of, an existing Historically Significant Property is proposed, the applicant shall bear the burden of proving, by clear and convincing evidence, that the proposed addition or alteration is consistent with the historically significant features of the structure such that the historically significant features shall be preserved.
 - (4) If a party proposes the demolition of a Historically Significant Property, that party bears the burden of proving, by clear and convincing evidence, that the demolition is permissible pursuant to Section 1146.06 hereof.

(Ord. 2019-39. Passed 8-13-19.)

1146.05 DEFINITIONS.

As used in this chapter, the following terms shall have the meaning given herein:

- (a) A "Historically Significant Property" means (i) any structure which is more than one hundred (100) years old, or,
 - (ii) any structure that is fifty (50) years old and:
 - (1) Is listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of

Interior); or preliminarily determined by the Ohio Historic Site Preservation Advisory Board as meeting the requirements for individual listings on the National Register; or

- (2) Is certified or preliminarily determined by the Ohio Historic Site Preservation Advisory Board as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Ohio Historic Site Preservation Advisory Board to qualify as a registered historic district; or
- (3) Consistent with the criteria used to determine National Register eligibility, possesses one or more of the following attributes:
 - A. Is associated with events that have made a significant contribution to the broad patterns of Municipality history; or
 - B. Is associated with the lives of persons significant in the Municipality's past; or
 - C. Is a structure which:
 1. Embodies the distinctive local characteristics of a type, period or method of construction; or
 2. Represents the work of a local Master as defined herein; or
 3. Possesses high artistic values; or
 - D. Has yielded or may be likely to yield, information important in the prehistory or history of the Municipality.
- (b) "Compatible" for the purposes of this chapter means that a design does not materially and adversely impact the economic or historical value of a Historically Significant Property.
- (c) "Proximity" for the purpose of determining compatibility of design pursuant to Section 1146.04 means the potential for one property, by virtue of its location, to materially and adversely affect an Historically Significant Property.
- (d) "Economically Feasible" means that the costs of the necessary repair and rehabilitation of a Historically Significant Property, when combined with the market value of the land upon which the Historically Significant Property resides, do not exceed the market value of the real property after the necessary repair and rehabilitation of the Historically Significant Property has been completed, based on the reasonable expectations in the marketplace for comparably aged and constructed homes by an amount beyond what a willing and reasonably prudent buyer would agree to pay for a Historically Significant Property in that area of the Municipality.
- (e) "Preservation" means the act or process of applying measures necessary to sustain the existing form, integrity and material of a Historically Significant Property.
- (f) "Restoration" means the returning of a historically significant building to its original condition or to its condition at a specifically identified time in its history as it has evolved, based on supporting visual and documentary evidence and physical analysis of the property. The intent of restoration is to accurately restore the character-defining historical elements of the property to their original or selected later date appearance when it achieved its historical importance. Conjectural restoration is not acceptable.
- (g) "Repair" means the fixing or mending of a building that has suffered natural or man-made damage due, for example, to wind, water, fire, vandalism or long-term failure to properly maintain it. Repair does not imply, nor does it encourage restoration, although it may become part of the process for a building undergoing restoration.
- (h) "Rehabilitation" means the renovation of a building, in its present condition, for continued use, or its adaptation to a new use. To meet the Secretary of the Interior's Standards for Rehabilitation, the owner must retain the surviving historically-important, character-defining components of the building but is not required to restore it to its original historical appearance or configuration, which may have changed over the years.
- (i) "Reconstruction" means the building of a replica of a structure, or portion thereof, that has been destroyed, based upon supporting visual and documentary evidence and, possibly surviving fragments. This technique is rarely used and is usually confined to archaeological sites.
- (j) "Master" means a figure of generally recognized greatness in a field, a known craftsman of consummate skill, or an anonymous craftsman whose work is distinguishable from others by its characteristic style and quality. The property must express a particular phase in the development of the master's career, an aspect of the master's work, or a particular idea or theme in the master's craft.

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1146.06 DEMOLITION AND MOVING.

- (a) Demolition Prohibited; Exceptions. The demolition of a Historically Significant Property shall not be permitted unless one of the following conditions exist:
 - (1) Demolition has been ordered by the Administrator for public safety because of an unsafe or dangerous condition that constitutes an emergency.
 - (2) The owner demonstrates that the Historically Significant Property is either not habitable or otherwise not safe; or the Repair or Rehabilitation of the structure is not Economically Feasible and the property's condition did not result from damage which has been purposefully caused to the property, or

allowed to occur due to the neglect of the owner or previous owners with the likely intention of making the Repair or Rehabilitation of the structure not Economically Feasible. No permit to demolish will be permitted under this paragraph (a)(2) or (3) hereof unless the owner or owner's representative obtains final approval from the Architectural Board of Review for the structure(s) which will replace the structure to be demolished.

- (3) The owner demonstrates to the satisfaction of the Architectural Board of Review that denial of the demolition is inconsistent with a legitimate interest in the health, safety and welfare of the Municipality.
- (4) The demolition request is for an inappropriate addition or a portion of a structure that is not historically significant, and, the demolition will not adversely affect those parts of the structure that are found to be a Historically Significant Property as determined by the Architectural Board of Review.

(b) Moving. No Historically Significant Property may be moved from its current location unless the Architectural Board of Review determines that the moving of the structure will not materially and adversely impact the historical character of the structures more than 50 years old in Proximity.

(Ord. 2019-39. Passed 8-13-19.)

1146.07 MAINTENANCE REQUIREMENTS.

(a) Nothing in this chapter shall be construed to prevent or delay the reconstruction, alteration or demolition of a structure or feature which has been ordered by the Administrator upon certification of an unsafe condition constituting an emergency.

(b) Similarly, nothing in this chapter shall be construed to govern or restrict routine maintenance activities, which do not represent alterations in exterior appearance.

(c) The owner of any structure, even if vacant and uninhabited, shall provide sufficient maintenance and upkeep for such structure to ensure its perpetuation and to prevent its destruction by deterioration. This provision shall be in addition to all other applicable provisions of the Building Code.

(Ord. 2019-39. Passed 8-13-19.)

1146.08 SUPPLEMENTAL REGULATIONS.

Design Guidelines relating to the responsibilities and duties of the Architectural Board of Review based on the foundation of the Charter and Codified Ordinances of the Municipality were adopted by the Municipality on October 10, 2005. For additional design regulations for specific uses or zoning districts refer to the following among others:

- (a) Building and site design regulations for attached single family development in the ASF District as set forth in Sections 1127.07(a) and 1127.07(b).
- (b) Regulations for garages in the ASF District as set forth in Section 1127.08(b).
- (c) Building and site design regulations for multifamily development in the MF District as set forth in Sections 1129.07(a) and 1129.07(b).
- (d) Building and site design regulations for attached single family development and multifamily development in the RMU District as set forth in Sections 1130.09(a) and 1130.09(b).
- (e) Regulations for garages in the RMU District as set forth in Section 1130.10(d).
- (f) Building and site design regulations for the RL District as set forth in Sections 1131.07(a), 1131.07(b), 1131.07(c), and 1131.07(d).
- (g) Regulations for garages in the RL District as set forth in Section 1131.08(b).
- (h) Modification of side yard setback requirements in the Office District as set forth in Section 1135.04(c)(2).
- (i) Modification of side yard setback requirements in the Retail Business District as set forth in Section 1137.04(c)(2).
- (j) Design regulations for canopies at automobile service stations in the Retail Business District as set forth in Section 1137.05(b)(3).
- (k) Modification of side yard setback requirements in the Central Shopping District as set forth in Section 1138.04.
- (l) Fencing for utility uses as set forth in Section 1142.07(b).
- (m) Design standards for signs as set forth in Section 1143.08.
- (n) Design standards for cluster development as set forth in Section 1126.05(d) and 1125.05(h).

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