

**CITY OF SHULLSBURG  
ORDINANCE NO. 261**

Public Hearing Date- September 2, 2008

**ORDINANCE AMENDING SECTION 17 – HISTORIC PRESERVATION CODE**

The Common Council of the City of Shullsburg do ordain as follows:

**SECTION 1.**

Section 17 of the Municipal Code of the City of Shullsburg, Wisconsin is hereby repealed and recreated to read as follows:

17.101 PURPOSE AND INTENT.

It is hereby declared a matter of public policy that the protection, enhancement, perpetuation and use of improvements of special character or special historical interest or value is a public necessity and is required in the interest of health, prosperity, safety and welfare of the people. The purpose of this subchapter is to:

- (1) Effect and accomplish the protection, enhancement and perpetuation of such improvements and of districts which represent or reflect elements of the City's cultural, social, economic, political, engineering and architectural history.
- (2) Safeguard the City's historic and cultural heritage as embodied and reflected in such historic structures, sites and districts.
- (3) Stabilize and improve property values.
- (4) Foster civic pride in the beauty and noble accomplishments of the past.
- (5) Protect and enhance the City's attractions to residents, tourists and visitors and serve as a support and stimulus to business and industry.
- (6) Strengthen the economy of the City.
- (7) Promote the use of historic structures, sites and districts for the education, pleasure and welfare of the people of the City.

17.102 DEFINITIONS.

In this subchapter, unless the context clearly requires otherwise:

***APPROVED AREAS.*** *All areas outside of the pedestrian path, measured from the back of the curb and a width equal to current ADA requirements. See website [www.access-board.gov](http://www.access-board.gov) for current guidelines.*

**COMMISSION.** The Historic Preservation Commission created under this subchapter.

**HISTORIC DISTRICT.** An area designated by the City Council on recommendation of the Commission, composed of 2 or more improvement parcels that together comprise a district of special character or special historic interest or value as part of the development, heritage or cultural characteristics of the City, State or nation and which has been designated as an Historic District pursuant to the provisions of this subchapter.

**HISTORIC LANDMARK.** Any historic site or historic structure designated pursuant to this subchapter and any improvement or improvement parcel located within an Historic District designated pursuant to this subchapter.

**HISTORIC SITE.** Any parcel of land whose historic significance is due to a substantial value in tracing the history of aboriginal people or upon which an historic event has occurred and which has been designated as an historic site under this subchapter or an improvement parcel or part thereof on which is situated an historic structure and any abutting improvement parcel or part thereof used as and constituting part of the premises on which the historic structure is situated.

**HISTORIC STRUCTURE.** Any improvement which has a special character or special historic interest or value as part of the development, heritage or cultural characteristics of the City, State or nation and which has been designated as an historic structure pursuant to the provisions of this subchapter.

**IMPROVEMENT PARCEL.** The unit of property which includes a physical betterment constituting an improvement and the land embracing the site thereof and is treated as a single entity for the purpose of levying real estate taxes provided, however, that the term “improvement parcel” shall also include any unimproved area of land which is treated as a single entity for such tax purposes.

17.103 HISTORIC PRESERVATION COMMISSION COMPOSITION.

- (1) An Historic Preservation Commission is hereby created, consisting of 5 members. ~~of the membership~~, 3 shall be citizens, preferably including a registered architect, an historian qualified in the field of historic preservation and a licensed real estate broker; and one shall be an alderman who shall serve only during his tenure. Each member shall have, to the highest extent practicable, a known interest in historic preservation. The may/or shall appoint the commissioners subject to confirmation by the City Council. Of the initial members so appointed, one shall serve a term of one year, one shall serve a term of 2 years and 3 shall serve a term of 3 years. Thereafter, the term for each member shall be 3 years. Members must reside in the City year-round ***and may be reappointed.***
- (2) ***The Commission meets as necessary, generally monthly, as scheduled by the Chair, and special meetings may be called at the request of any Commissioner.***
- (3) ***Commission decisions shall be by majority vote of those present and voting.***
- (4) ***No action shall be taken by the Commission involving permitting or denying actions unless written notice is given to such owner and unless such owner shall have the opportunity to be heard at a public meeting.***

17.104 HISTORIC LANDMARK DESIGNATION CRITERIA.

- (1) For purposes of this subchapter, an historic structure or historic site designation may be placed on any site, natural or improved, including any building, improvement or structure located thereon, or any area of particular historic, architectural or cultural significance to the City, such as historic structures or sites which:
  - (a) Exemplify or reflect the broad cultural, political, economic or social history of the nation, State or community;
  - (b) Are identified with historic personages or with important events in national, State or local history;
  - (c) Embody the distinguishing characteristics of an architectural type or specimen, inherently valuable for a study of a period, style, method of construction or of indigenous materials or

craftsmanship; or

- (d) Are representative of the notable work of a master builder, designer or architect whose individual genius influenced his age.
- (2) The Commission may adopt specific operating guidelines for landmark sites designation, providing such are in conformance with the provisions of this section.

17.105 COMMISSION POWERS AND DUTIES.

- (1) DESIGNATION. The Commission shall have the power, subject to §17.106, to designate historic landmarks and to recommend the designation of historic districts within the City limits. Such designations shall be made based on §17.104. Once designated by the Commission, such historic structures, sites and districts shall be subject to all the provisions of this subchapter. Historic district designations must be approved by the City Council.
- (2) REGULATION OF CONSTRUCTION, RECONSTRUCTION AND EXTERIOR ALTERATION.
- (a) No owner or person in charge of an historic site or structure within an Historic District or an adjoining structure shall reconstruct or alter all or any part of the exterior of such property or construct any improvement upon such designated property or properties within an Historic District or cause or permit any such work to be performed upon such property, unless a certificate of appropriateness has been granted by the Historic Preservation Commission. Unless such certificate has been granted by the Commission, the Building Inspector shall not issue a permit for any such work, *regardless of cost.*
- (1) *Ordinary maintenance and repairs may be undertaken without a Certificate of Appropriateness provided the work involves repairs to existing features of a historic property or replacement of elements of the improvement with pieces identical in appearance and material and provided the work does not change the exterior appearance of the structure of site and does not require the issuance of a building permit; except any brick, stone, or mortar repairs.*

- (b) Any application for a permit from the Building Inspector involving the exterior of a designated historic site or structure within an Historic District or any structure which adjoins such a site or structure shall be filed with the Historic Preservation Commission.
- (c) Upon filing of any application with the Historic Preservation Commission, the Historic Preservation Commission shall determine:
  - 1. Whether in the case of a designated historic landmark or adjoining structure, the proposed work would detrimentally change, destroy or adversely affect the historic character of the improvement parcel upon which such work is to be done.
  - 2. Whether in the case of the construction of a new improvement upon an historic landmark or adjoining site, the exterior of such improvement would adversely affect or not harmonize with the external appearance of other neighboring improvements on or adjoining such site.
  - 3. Whether in the case of any property located in an Historic District designated pursuant to the terms of 17.106(3) of this subchapter, the proposed construction, reconstruction or exterior alteration does not conform to the objectives and design criteria of this subchapter for such district as adopted by the City Council.
- (d) ***The Commission shall review applications presented to it for Certificates of Appropriateness and shall grant or deny the certificate.*** ~~If the Commission determines par. (c) in the negative, it shall **not** issue the certificate of appropriateness. Upon the issuance **approval** of such certificate, the building permit shall then be issued by the Building Inspector.~~
  - 1. The Commission shall make this decision within 30 days of the filing of the application. Should the Commission refuse to issue a certificate of appropriateness due to the failure of the proposal to conform to the above guidelines, the applicant may ***within 30 days of the denial of the certificate*** appeal such decision to the City Council, which may grant such certificate by a 2/3 vote only and then only upon a clear showing of economic hardship by the applicant. In addition, if the Commission fails to issue a certificate of appropriateness, the

Commission shall, at the request of the applicant, cooperate

and work with the applicant in an attempt to obtain a certificate of appropriateness within the guidelines of this subchapter.

**2. *The Commission shall provide a written explanation for the denial of the Certificate.***

- (e) The Commission may issue and enforce work orders for correcting or revising construction, reconstruction or alterations commenced without the prior issuance of a certificate of appropriateness.
  - (f) The use of sandblasting, gritblasting, high pressure water blasting or other forms of abrasive cleaning of exterior surfaces are prohibited.
- (3) REGULATION OF DEMOLITION. No permit to demolish all or part of an historic landmark, which includes historic structures or improvements in historic districts, shall be granted by the Building Inspector, except as follows:
- (a) No person in charge of an historic landmark shall be granted a permit to demolish such property under any circumstances without first receiving the written approval of the Commission and a conditional use permit.
  - (b) When any person applies for a permit to demolish such property, the application shall be filed with the Commission. The Commission may grant, deny or delay the application. If the Commission chooses to delay the application for a period of up to 6 months from the time of such application, the Commission and the applicant shall undertake serious and continuing discussions for the purpose of finding a method to save such property. At the end of this 6-month period, if no mutually agreeable method of saving the subject property bearing a reasonable prospect of eventual success is underway or if no formal application for funds from any governmental unit or nonprofit organization to reserve the subject property is pending, the Commission may then grant or deny permission to demolish the subject property, subject to the standards of this subchapter.
  - (c) Permission of the Commission is not required when conditions dangerous to life, health or property are present, pursuant to §17.108 of this subchapter.

- (d) In determining whether to issue a certificate of appropriateness for any demolition, the Commission shall consider and may give decisive weight to any or all of the following:
1. Whether the improvement is of such architectural or historic significance that its demolition would be detrimental to the public interest and contrary to the general welfare of the people of the City and the State.
  2. Whether the improvement, although not itself a designated historic structure, contributes to the distinctive architectural or historic character of the Historic District as a whole and, therefore, should be preserved for the benefit of the people of the City and the State.
  3. Whether demolition of the improvement would be contrary to the purpose and intent of this subchapter as set forth in 517.80 and to the objectives of the applicable Historic District ordinance as adopted by the City Council.
  4. Whether the improvement is of such old and unusual or uncommon design, texture and/or material that it could not be reproduced or be reproduced only with great difficulty and/or expense.
  5. Whether retention of the improvement would promote the general welfare of the people of the City and the State by encouraging study of American history, architecture and design or by developing an understanding of American culture and heritage.
  6. Whether the improvement is in such a deteriorated condition that it is not structurally or economically feasible to preserve or restore it, provided that any hardship or difficulty claimed by the owner which is self-created or which is the result of any failure to maintain the property in good repair cannot qualify as a basis for the issuance of a certificate of appropriateness.
  7. Whether any new improvement proposed to be constructed or change in the use proposed to be made is compatible with the buildings and environment of the Historic District in which the improvement is located.

8. The Commission shall not review the demolition of garages, accessory buildings or any improvement built after 1930.
- (e) An appeal from the decision of the Commission to grant or deny a certificate of appropriateness, whenever this determination is made, or to suspend action on a demolition application may be taken to the City Council by the applicant for the demolition permit or by the alderman of the district in which the subject improvement is located. Such appeal shall be initiated by filing a petition to appeal, specifying the grounds therefor with the City Clerk within 10 days of the date the final decision of the Commission is made. The City Clerk shall file the petition to appeal with the City Council. After a public hearing, the Council may by favorable vote of 2/3 of its members reverse or modify the decision of the Commission if, after balancing the interest of the public in preserving the subject property and the interest of the owner in using it for his own purposes, the Council finds that, owing to special conditions pertaining to the specific piece of property, demolition will preclude any and all reasonable use of the property and/or will cause serious hardship for the owner, provided that any self created hardship shall not be a basis for reversal or modification of the Commission's decision.
- (4) **RECOGNITION OF HISTORIC LANDMARKS.** At such time as an historic landmark has been properly designated in accordance with §~17.104 and 17.106 of this subchapter, the Commission may cause to be prepared and erected on such property at public expense a suitable plaque declaring that such property is an historic landmark. Such plaque shall be so placed as to be easily visible to passing pedestrians. In the case of an historic structure, the plaque shall state the accepted name of the structure, the date of its construction and other information deemed proper by the Commission. In the case of an historic site which is not the site of an historic structure, such plaque shall state the common name of the site and such other information deemed appropriate by the Commission.
  - (5) **SALE OF HISTORIC LANDMARKS.** Any party who is listed as the owner of record of an historic structure or site at the time of its designation, who can demonstrate to the Commission that by virtue of such designation he is unable to find a buyer willing to preserve such an historic structure or site even though he has made reasonable attempts in good faith to find and attract such a buyer, may petition the Commission for a rescission of its designation. Following the filing of such petition with the secretary of the Commission:

- (a) The owner and the Commission shall work together in good faith to locate a buyer for the subject property who is willing to abide by its designation.
  - (b) If at the end of a period not exceeding 12 months from the date of such petition no such buyer can be found and if the owner still desires to obtain such rescission, the Commission shall rescind its designation of the subject property.
  - (c) In the event of such rescission, the Commission shall notify the City Clerk, Building inspector and City Assessor of same and shall cause the same to be recorded at its own expense in the office of the County Register of Deeds.
  - (d) Following any such rescission, the Commission may not redesignate the subject property an historic structure or site for a period of not less than 5 years following the date of rescission.
- (6) OTHER DUTIES. In addition to those duties already specified in this section, the Commission may:
- (a) Actively work for the passage of enabling legislation which would permit the granting of full or partial tax exemptions to properties it has designated under the provisions of this section in order to encourage owners of historic properties to assist in carrying out the intent of this subchapter.
  - (b) Cooperate with the Historic Preservation officer for the State and the State Historic Preservation Review Board in attempting to include such properties hereunder designated as historic structures, sites or districts in the National Register of Historic Places.
  - (c) Work for the continuing education of the citizens about the historic heritage of the City and the historic structures and sites designated under the provisions of this subchapter.
  - (d) As it deems advisable, receive and solicit funds for the purpose of historic preservation in the City. Such funds shall be placed in a special City account for such purpose.
  - (e) Appoint a citizens advisory committee, whose function shall be to advise and consult with the Commission and to prepare nominations

of structures, districts and sites for designation as landmarks.

17.106 PROCEDURES.

- (1) DESIGNATION OF HISTORIC STRUCTURES, HISTORIC SITES AND HISTORIC DISTRICTS. The Commission may, after notice and public hearing, designate historic structures and sites and may recommend historic districts or rescind such designation or recommendation, after application of the criteria in §17.104 above. At least 10 days prior to such hearing, the Commission shall notify the owners of record as listed in the office of the City Assessor, who are owners of property in whole or in part situated within 200' of the boundaries of the property affected. Notice of such hearing shall also be published as a Class 2 notice under the Wisconsin Statutes. The Commission shall also notify the Department of Public Works, Redevelopment Authority, Parks Committee, Fire and Police Departments, Health Department, Building Inspector and Plan Commission. Each such department shall respond to the Commission within 30 days of notification with its comments on the proposed designation or rescission. The Commission shall then conduct such public hearing and, in addition to the notified persons, may hear expert witnesses and shall have the power to subpoena such witnesses and records as it deems necessary. The Commission may conduct an independent investigation into the proposed designation or rescission. Within 10 days after the close of the public hearing, the Commission may designate the property as either an historic structure, historic site or recommend its inclusion in an Historic District or may rescind the designation. After the designation, recommendation or rescission has been made, notification shall be sent to the property owner or owners and to the persons who appeared at the public hearing. Notification shall also be given to the City Clerk, Building Inspector and the City Assessor. The Commission shall cause the designation or rescission to be recorded at City expense in the County Register of Deeds, office or the recommendation to be submitted to the City Council as provided by sub. (3).
- (2) VOLUNTARY RESTRICTIVE COVENANTS. The owner of any historic structure or site may at any time following such designation of his property enter into a restrictive covenant on the subject property after negotiation with the Commission. The Commission may assist the owner in preparing such covenant in the interest of preserving this historic property. The owner shall record such covenant in the County Register of Deeds' office and shall notify the City Assessor of such covenant and the conditions thereof.

(3) CREATION OF HISTORIC DISTRICT.

(a) Selection.

1. For preservation purposes, the Historic Preservation Commission may select geographically defined areas within the City to be designated as historic districts and shall, with the assistance of the advisory committee or other interested citizens, property owners, City staff or consultants engaged to perform such work, prepare an Historic District ordinance for each area. An Historic District may be designated for any geographic area of particular historic, architectural or cultural significance to the City which:
  - a. Exemplifies or reflects the broad cultural, political, economic or social history of the nation, State or community;
  - b. Is identified with historic personage or with important events in national, State or local history;
  - c. Embodies the distinguishing characteristics of architectural type specimens inherently valuable for the study of a period or periods, styles, methods or construction, indigenous materials or craftsmanship; or
  - d. Is representative of the notable works of master builders, designers or architects who influenced their age.
2. Each Historic District ordinance prepared for or by the Historic Preservation Commission shall include specific guidelines for development and a statement of preservation objectives.

(b) Review and Adoption Procedure.

1. The Historic Preservation Commission shall hold a public hearing when considering the ordinance for an Historic District. Notice of the time, place and purpose of such hearing shall be given by publication as a Class 2 notice under the Wisconsin Statutes in the official City paper. Notice of the time, place and purpose of the public hearing shall also be sent by the City Clerk to ~~the alderman of the aldermanic district or districts~~ **all elected officials** in which the Historic District is located and the owners of record as

listed in the office of the City Assessor, who are owners of

property situated in whole or in part within 200' of the boundaries of the proposed Historic District. Such notice is to be sent at least 10 days prior to the date of the public hearing. Following the public hearing, the Historic Preservation Commission shall vote to recommend, reject or withhold action on the ordinance. This recommendation shall be forwarded to the City Plan Commission and the City Council.

2. The City Council, upon receipt of the recommendations from the Historic Preservation Commission and Plan Commission, shall hold a public hearing, notice to be given as noted in subpar. 1. above, and shall, following the public hearing, either designate or reject the Historic District. Designation of the Historic District shall constitute adoption of the ordinance prepared for that district and direct the implementation of such ordinance.

#### 17.107 CONFORMANCE WITH REGULATIONS.

- (1) Every person in charge of any historic landmark or improvement in an Historic District shall maintain same or cause or permit it to be maintained in a condition consistent with the provisions of this subchapter. The City Council may appoint the Building Inspector or any other individual or group of individuals to enforce this subchapter. The duties of the inspection officer shall include periodic inspection at intervals provided by the City Council of designated historic landmarks. These inspections may include physical entry upon the property and improvement, with permission of the owner, to insure that interior alterations or maintenance will not jeopardize the exterior appearance or structural stability of the improvement. If an owner refuses permission for the enforcement officer to enter for purposes of inspection, the inspection officer may obtain a warrant of entry pursuant to §66.122, Wis. Stats., and take any other reasonable measures to further enforce this subchapter.
- (2) Insofar as they are applicable to an historic structure, historic site or improvement in an Historic District designated under this subchapter, any provision of the Plumbing Code; Minimum Housing and Property Maintenance Code; Building Code; Heating, ventilating and Air Conditioning Code; and outdoor signs and outdoor advertising structures regulations of this Code of ordinances may be varied or waived on application by the appropriate board having such jurisdiction over such

chapter or, in the absence of such board, by the Building Inspector,

provided such variance or waiver does not endanger public health or safety.

- (3) Notwithstanding any provisions of this Code of Ordinances requiring the demolition of any structure damaged to an extent greater than 50 percent of its current assessed value, the owner of a designated landmark or structure in an Historic District may elect to restore that structure despite its extent of damage, provided that:
  - (a) A plan and timetable for restoration are reviewed and approved by the Commission.
  - (b) The approval plan is followed and approved timetable is adhered to.

17.108 CONDITIONS DANGEROUS TO LIFE, HEALTH OR PROPERTY.

Nothing contained in this subchapter shall prohibit the making of necessary construction, reconstruction, alteration or demolition of any historic structure, any improvement on an historic site or in an Historic District, pursuant to order of any governmental agency or pursuant to any court judgment, for the purpose of remedying emergency conditions determined to be dangerous to life, health or property. In such cases, no approval from the Commission shall be required.

17.109 DOWNTOWN HISTORIC DISTRICT. (Cr. 4/18/95)

It is hereby declared a matter of public policy that a specific area of the City be identified, designated and protected because of its special character and historical interest. This area, to be called the Downtown Historic District, shall be described in general by the map and specifically by the boundary description:

- (1) **BOUNDARY DESCRIPTION.** Beginning at the Northeast corner of Lot 9 of Hempstead's Open Lots, thence South to the South lot line of 104 South Judgement Street, which includes parts of Lots 30 and 31 of Hempstead's Open Lots, then West to the West lot line of said parcel, then North along the West lot line of said parcel to a point in the South line of said Lot 9, then West along the South lines of Lots 9, 10, 11, 12, 13, 14 and 15 of Hempstead's Open Lots, then across Iowa Street to the Southeast corner of Lot 16, continuing West along the South lines of Lots 16, 17, and 18 of Hempstead's Open Lots, then South along the East lot line of 112 **Galena** ~~Gratiot~~ Street, which parcel includes Lots 19, 20 and parts of Lots 21 and 23 of Hempstead's Open Lots, then South across Church Street to the North

line of 226 Church Street, then East along the North line of said parcel to its

East line, then South to its South line, then West to its intersection with **Galena Gratiot** Street, which parcel includes Lot 43 and part of Lot 42, Hempstead's Open Lots, then West across **Galena Gratiot** Street to include a parcel described as Part of the NE 1/4 of the SE 1/4 of Section 10, T1N, R2E, descr. in V.12 1, p.620, also known as 240 Church Street, then North along the West line of **Galena Gratiot** Street to a point on the East line of Block 1 of Hempstead's Addition, then West along the South lines of Lots 1, 2, 3, 4 and 5, Block 1, Hempstead's Addition, then across Mineral Street and continuing West along the real lot lines of 306—310 and 314 West Water Street, which include Lot 2 and parts of Lots 1 and 3, Block 2, Hempstead's Addition, then North along the West line of said parcel across West Water Street to a point on the South line of Block 12, Northwest Addition, then West to the West lot line of 327 West Water Street, then North along said West line to the North line of said lot, then East to a point in Mineral Street, said parcel including part of Lot 4, Block 12, Northwest Addition, Lots 4, 5, 6, 7, the North 53' of Lot 8 and Lot 9 except the North 33', all in Block 13 of the Northwest Addition, the South 27' of Lot 1, all of Lots 2, 3 and 4, Block 4, Hempstead's Addition, then East across Mineral Street to include the entire of Lots 1, 2, 3, 4, 5 and 6, Block 5, Hempstead's Addition, then East across ~~Gratiot~~ **Galena Street** to include the entire of Lots 1, 2 and 3 of Hempstead's Open Lots, then East across Iowa Street to the Northeast corner of Lot 8, Hempstead's Open Lots, then South along the East line of said Lot 8 to its intersection with West Water Street, including all of Lots 4, 5, 6, 7 and 8 of Hempstead's Open Lots, then continuing the East line of said Lot 8 South across West Water Street to the South line of West Water Street, then Eastward along said South line to the point of beginning.

- (2) CRITERIA FOR CREATION OF DOWNTOWN HISTORIC DISTRICT. In that the Downtown Historic District reflects a pattern in the broad social history of Shullsburg and in the state and the nation, and that elements within the district meet designation criteria 1, 2 and 3 in § 17.104(1) in this Code, namely that many of the buildings in the district exemplify or reflect the broad cultural, economic and social history of the city and region are identified with historic personages of importance in local history, and embody the distinguishing characteristics of an architectural type of specimen, inherently valuable for a study of the period, style, method of construction or of indigenous materials or craftsmanship, the area described by the map and the boundary description shall be designated as an historic district.

- (3) **REGULATION OF CONSTRUCTION, RECONSTRUCTION, EXTERIOR ALTERATION AND DEMOLITION.** The Commission shall act in these matters specifically as they regard the Downtown Historic District in the manner specified in §17.105(2) and (3) of this Code.
- (4) **CRITERIA FOR THE REVIEW OF NEW DEVELOPMENT.**
- (a) **Height.** The maximum height for new improvements in the Downtown Historic District shall be no greater than the average of the height of the 2 nearest neighboring improvements on each side and the 4 nearest improvements located across the street from the proposed improvement.
- (b) **Materials.** Materials for the exterior walls of new improvements shall be the same or similar to materials prevalent in the Downtown Historic District. Permitted materials include stone and brick, in type and color to match existing improvements identified as “contributing” or “significant” on the Downtown Historic District map, and narrow-gauge horizontal clapboards whose exposed width matches that used on wood-sided improvements identified as “significant” on the Downtown Historic District map. Aluminum or vinyl siding resembling narrow-gauge clapboards are permitted, provided they match as well. The following materials are prohibited: asbestos, wide clapboards over 4” in exposed width, diagonal boards, vertical boards, rough-sawn wood, rough split shingles, shakes, smooth-sided concrete or cinder block, metal sheets or other materials not similar to or visually compatible with improvements identified as “contributing” or “significant” on the Downtown Historic District map.
- (c) **Street Facades.** Street facades of new improvements shall be visually compatible with improvements identified as “contributing” or “significant” on the Downtown Historic District map. The proportions and relationships between width and height of doors and windows in new street facades shall be compatible with those found on improvements identified as “contributing” or “significant” on the Downtown Historic District map, and the rhythm of solids to voids shall be similarly compatible. All new street facades shall be visually compatible with buildings within 100’ along the adjoining or opposite street face via directional expression, whether that expression be horizontal or vertical. Street setbacks shall be no greater than the average of the 2 nearest neighboring improvements

on each side of the proposed improvement.

- (d) Roof Shape and Materials. The shapes, pitches and materials of roofs of new improvements shall be similar in appearance to those found on improvements identified as “contributing” or “significant” on the Downtown Historic District map.
  - (e) Solar Panels. Solar panels are permitted where they are not visible from the street, and may be permitted when visible, provided that they do not hide from street view any architectural features of neighboring improvements and further provided that they are not of so large a scale that they become a major feature of the design of the proposed improvement.
  - (f) Accessory Buildings. Any accessory buildings proposed shall be reviewed and approved by the same criteria as principal improvements where they are visible from the street.
- (5) CRITERIA FOR THE REVIEW OF ADDITIONS, EXTERIOR ALTERATIONS AND REPAIRS.
- (a) Height. All additions shall be no higher than the existing improvement. The Commission may grant variances to height where a taller addition cannot be seen from the street.
  - (b) Materials. Materials for the exterior walls of additions, alterations or repairs shall be the same as those used on the wall being added to, altered or repaired, ~~except that vinyl or aluminum~~ **unless prohibited below**. **Any approved material** that replaces or covers clapboards or non original siding on improvements originally sided with clapboards ~~will~~ **may** be approved by the Commission provided that the new siding imitates the width of the original to within one inch and provided further that all architectural details including, but not limited to, window trim, wood cornices, and ornament either remain uncovered or are duplicated exactly in appearance. All trim must continue to project out beyond the plane of the new siding. If insulation is applied under new siding, then all trim must be built up so that it projects from the new siding to the same extent that it did with the original siding.
    - (1) ***Vinyl and metal material is discouraged for exterior walls of additions, alterations or repairs.***

- (c) ~~Alterations to Street Facades and Additions Visible from the Street.~~ Alterations to street facades **and** additions ~~visible from the street~~, including additions to the tops of improvements, shall be compatible with the existing improvement in architectural design, scale, color, texture, proportion of solids to voids and proportions of widths to heights of doors and windows. Materials used in such alterations and additions shall duplicate in texture and materials, and architectural details used therein shall duplicate in design, the materials and details used in the original construction of the improvement or of similar improvements in the Downtown Historic District. The Commission may approve the duplication of the texture and appearance of materials and the design of architectural details found on the existing improvement, where they differ from those originally used, except that the Commission may not approve the continued covering of storefront shop windows. When alterations to the storefronts are undertaken, storefronts and shop windows shall be either restored to their original appearance or to the appearance of similar improvements in the Downtown Historic District dating between 1840 and 1930. Multiple lights may be replaced with single lights, provided that exterior mountings are installed which duplicate the original mountings in shape and location. Exterior alterations and additions which exactly duplicate the original materials in composition are encouraged. Exterior alterations and additions that destroy significant architectural features are prohibited. Side additions shall not detract from the design composition of the original facade. ***Alteration and additions shall harmonize with the architectural design of the existing improvement rather than contrast with it.***
- (d) ~~Exterior Alterations and Additions Not Visible from the Street.~~ Exterior alterations and additions that are not visible from any streets contiguous to the lot upon which the proposed improvement will be located will be approved by the Commission if their design is compatible with the scale of the existing improvement and if the materials are compatible with the existing materials in texture, color and architectural details. Alterations and additions shall harmonize with the architectural design of the existing improvement rather than contrast with it.
- (d) Roof Shape and Materials. If the existing roof is visible from the street, then it ***Buildings*** shall be re-roofed with a ***an approved*** material which approximates the appearance of the original roofing material as closely as possible.

(6) CRITERIA FOR THE REVIEW OF SIGNS.

(a) Primary Signs.

- (1) Storefronts are permitted one primary sign.
- (2) ***Primary signs are considered permanent and shall be attached to the building.***
- (3) ***Primary signs shall be constructed of a material similar to wood in appearance and attached to the building with non-staining/non-rusting hardware.***
- (4) A primary sign shall be located below the sills of second floor windows and above the cornice line, with letters and numbers limited in height to 50 percent of the height of the signboard.
- (5) Where a fixed awning is mounted, it may be ~~substituted~~ ***used*** as ~~an alternate location for a~~ ***the*** primary sign, and the signable surface shall be considered the signboard for the purpose of calculating letter height. Awnings shall be mounted 7' above the sidewalk and shall project no more than 7' from the storefront.
- (6). It may be of a shape and design appropriate to the period 1840 to 1930.
- (7). ***Neon signs are strictly prohibited as a primary sign.***

(b) Secondary Signs & Flags.

- (1) One secondary sign ***or flag*** is permitted.
- (2) ***It may be made of material other than wood or painted metal.***
- (3) It may be placed upon the awning skirt, ~~or~~ upon a window, ~~or a~~ ***upon*** a side wall or hung ***from*** or projected ***from*** the improvement face.
- (4) ***A secondary sign or flag*** ~~It~~ shall be no larger than 12 square feet in area, and shall be of a shape and design appropriate to the period 1840 to 1930.

- (5) ***Secondary*** signs or ***flags*** hung or projecting shall be no closer to the ground than ***8 7 feet except in approved areas.***
  - (6) Window signs shall be of a material and color that contrasts with the display, while being small enough not to interfere with the display area.
  - (7) ***Sandwich/menu boards may be placed on the sidewalk during business hours. Boards must be placed in approved areas.***
- (c) **Permanent Signs.** *No other permanent signs other than those listed above are allowed.*
- (d) **Temporary Signs.**
- (1) *A temporary sign is intended for a short duration. Posters are classified as temporary signs.*
  - (2) *Vinyl signs are strictly prohibited.*
- (e) **Sign and Awning Illumination.** Signs may be ~~of neon, or may be~~ illuminated from without by direct lighting, provided that sign lighting does not shine directly into windows of other improvements. Signs and awnings shall not be illuminated from within.
- (7) CRITERIA FOR GENERAL MAINTENANCE.
- (a) **Abrasive Cleaning Prohibited.** Sandblasting, waterblasting with a sand additive, or corrosive cleaning, including but not limited to muriatic acid wash are prohibited unless specifically approved prior to work by the Commission. The Commission shall approve exterior surface cleaning projects using abrasive or corrosive cleaning methods only if the project will not adversely affect the exterior fabric of the improvement.
  - (b) **Maintenance Required.** ~~Every person in charge of an improvement in the Downtown Historic District shall keep in good repair all of the exterior portions of such improvement and all interior portions thereof which, if not so maintained, may cause or tend to cause the exterior portions of such improvement to fall into a state of disrepair. This provision shall be in addition to all other provisions of law~~

~~requiring such improvement to be kept in good repair.~~

*Every person in charge of an improvement in the Downtown Historic District shall preserve and keep from deterioration all buildings on the improvement. The owner shall repair the building or structure to correct any defects including, but not limited to, the following:*

- (1) All of the exterior portion of such improvement, including but not limited to:
  - (a) Deteriorated or ineffective water proofing of exterior walls, roofs, foundations, or floors including broken windows and doors.*
  - (b) Defective or lack of weather protection for exterior wall coverings, foundations, or floors, including broken windows or doors.*
  - (c) Deteriorated exterior features which, create a hazardous condition which could make demolition for public safety.**
- (2) All interior portions thereof which, if not so maintained, may cause or tend to cause the exterior portions of such improvement to fall into a state of disrepair.*
- (3) All interior portions deemed to be historically significant to the improvement.*
- (4) The improvement or any portions thereof which, if not so maintained, renders the improvement structurally unsafe or not properly watertight.*
- (5) All maintenance shall be completed by individuals qualified to complete the work, utilizing approved material which will exactly replicate the materials in the area being maintained, and complying with applicable historic preservation standards. Upon request by the Commission, written qualifications of the person(s) completing the work, as well as information describing similar work done for a minimum of three (3) projects in the area may be required. No repairs shall cause, either directly or indirectly, the additional deterioration of the improvement or any portion thereof.*
- (6) Any plants and/or landscaping which accelerates the*

***deterioration of the improvement, including climbing vines directly on the building must be promptly removed.***

- (c) Waiver or Variance Permitted. Insofar as they are applicable to an improvement in the Downtown Historic District, any provisions of code under these subsections relating to the construction or reconstruction of improvements or their mechanical systems may be varied or waived, upon application, by the appropriate board having jurisdiction over such code provision or, in the absence of such board, by the City Building Inspector, provided that such variance or waiver does not endanger public health or safety.

**17.109 (8) CRITERIA FOR ITEMS PLACED ON SIDEWALKS AND STREETS**

- (a) ***Items & Merchandise may be placed on approved areas of the sidewalk during business hours only and must not obstruct pedestrian traffic.***
- (b) ***Garbage cans must be recommended by the Historic Preservation Commission and approved by the City Council.***

17.115 VIOLATIONS. (Ren. MSC '91)

- (1) No person shall construct or use any structure, land or water in violation of any of the provisions of this chapter. In case of any violation, the City Council, Building Inspector, Plan Commission or any property owner who would be specifically damaged by such violation may institute appropriate action or proceeding to enjoin a violation of this chapter.
- (2) ***Upon the finding of a violation by the Commission or City Council, a written notice will be issued to the property owner by the Building Inspector.***
- (a) ***The owner shall repair the building or structure to correct any deficiencies; or***
- (b) ***Submit a plan to the Commission within ten (10) days of a violation occurring. This provision shall be in addition to all other provisions of law requiring such improvements to be kept in good repair.***

17.116 PENALTIES. (Ren. MSC '91) (Amd 05)

~~Any person who violates or fails to comply with the provisions of this chapter shall upon conviction thereof, forfeit not less than \$25 nor more than \$200 and costs of prosecution for each violation and in default of payment of such~~

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~~forfeiture and costs, shall be imprisoned in the County Jail until payment thereof,~~

~~but not exceeding 30 days. Each day a violation exists or continues shall constitute a separate offense.~~

***Any person, persons or business entity violating any of the provisions of this ordinance or its component sections (including the start of any work requiring a permit without first securing such permit) shall be subject to a forfeiture of \$0-\$500 plus court costs and assessments and every such person, firm or corporation shall be deemed guilty of a separate offense for which any violation of any of the provisions of this ordinance is committed, continued, or permitted.***

## SECTION 2.

This ordinance shall be in full force on the day following its passage and official publication.

Dated the \_\_\_\_\_ day of \_\_\_\_\_, 2008  
Passed the \_\_\_\_\_ day of \_\_\_\_\_, 2008  
Published the \_\_\_\_\_ day of \_\_\_\_\_, 2008

\_\_\_\_\_  
Thomas C. Curran, Mayor

\_\_\_\_\_  
Marsha L. Einsweiler, City Clerk/Treasurer