

CHAPTER 810

ZONING ORDINANCE: HISTORIC PRESERVATION

810-1. Title

This chapter shall be known and may be cited as the "Historic Preservation Ordinance."

810-2. Purpose

The purpose of this chapter is to promote the educational, cultural, economic, aesthetic and general welfare of the public through the preservation and protection of historic or architecturally worthy buildings, structures, sites, monuments, streetscapes, squares and neighborhoods.

810-3. Maps of Historic Districts; Criteria; Classification of Historic Buildings and Structures

(A) The Board of Review shall conduct a survey to identify historic or architecturally worthy buildings, structures, and places located within the County planning jurisdictional area. Based on its survey, the Board of Review shall submit to the Board of Commissioners a map describing the boundaries of a Historic District or Historic Districts. A Historic District may be limited to the boundaries of a property containing a single building, structure, or monument and shall be no larger than the Board of Review deems necessary to accomplish the purposes of this Chapter. The map may divide a district into primary and secondary areas.

(B) To be identified as historic or architecturally worthy, a building, structure or place must possess one or more of the following significant attributes:

- (1) an association with events that have made a significant contribution to the broad patterns of County history;
- (2) an association with the lives of persons significant in the County's past;
- (3) the distinctive characteristics of a type, period or method of construction;
- (4) an example of the work of a master;
- (5) high artistic values;
- (6) an example of a significant and distinguishable entity whose components may lack individual distinction; or
- (7) capability of yielding information important in prehistory or history.

Buildings, structures and places that have achieved significance within the past fifty (50) years shall not be considered eligible for designation unless they are unique and of exceptional importance.

(C) The Board of Review shall also classify and designate on the map all buildings and structures within each Historic District described on the map. Buildings and structures shall be classified as historic or non-historic, in the following manner:

(1) Historic buildings and structures must possess one or more of the significant historic or architectural attributes identified in subsection (B) above, to a degree warranting their preservation. They may be further classified as:

- (a) exceptional;
- (b) excellent;
- (c) notable; or
- (d) of value as part of the scene.

In lieu of the further classifications set forth in subdivisions (a) through (d), the Board of Review may devise its own system of further classification for historic buildings and structures.

(2) Nonhistoric buildings and structures are those not classified on the map as historic.

(D) The Board of Review shall state, in writing, the factual basis for its classification and further classification of each historic building or structure in a Historic District.

810-4. Approval of Maps of Historic Districts; Conflicts between Zoning Districts and Historic Districts

(A) The map setting forth the Historic District boundaries and building classifications must be submitted to and approved by the Board of Commissioners before the Historic District is established and the building classifications take effect. In approving the map, the Board of Commissioners shall follow the procedures applicable to the adoption of zoning maps as set forth in Indiana Code 36-7-4-600, et seq.

(B) Zoning districts lying within the boundaries of a Historic District are subject to the regulations for both the zoning district and the Historic District. If there is conflict between the requirements of the zoning district and the requirements of the Historic District, the more restrictive requirements apply.

810-5. Additional Surveys and Maps

The Board of Review may conduct additional surveys, and draw and submit additional maps for approval of the Board of Commissioners, as it considers appropriate.

810-6. Assistance from County Departments

(A) The Building Permit Official and the Administrator shall provide any technical, administrative, or clerical assistance requested by the Board.

(B) The attorney for the Commission is the attorney for the Board of Review. However, the Board of Review may employ other legal counsel, authorized to practice law in Indiana, as it deems necessary or desirable, subject to appropriation of funds by the Monroe County Council.

810-7. Construction Projects within Historic Districts; Certificates of Appropriateness Required; Exception

Except as provided in Section 15 of this Chapter, a certificate of appropriateness must be issued by the Board of Review before a permit is issued for or work is begun on any of the following:

- (A) Within all areas of the Historic District:
 - (1) the demolition of any building;
 - (2) the moving of any building;
 - (3) a conspicuous change in the exterior appearance of historic buildings by additions, reconstruction, alteration, or maintenance involving exterior color change; or
 - (4) any new construction of a principal building or accessory building or structure subject to view from a public way.
- (B) Within a primary area of the Historic District:
 - (1) a change in walls and fences or the construction of walls and fences along public ways; or
 - (2) a conspicuous change in the exterior appearance of nonhistoric buildings subject to view from a public way by additions, reconstruction, alteration, or maintenance involving exterior color change.

810-8. Applications for Certificates of Appropriateness

Application for a certificate of appropriateness may be made in the office of the Board or Review on forms provided by that office. Detailed drawings, plans, or specifications are not required. However, to the extent reasonably required for the Board of Review to make a decision, each application must be accompanied by sketches, drawings, photographs, descriptions, or other information showing the proposed exterior alterations, additions, changes, or new construction. The Board of Review shall prepare an application form, with instructions, for use by persons seeking a certificate of appropriateness from the Board of Review.

810-9. Approval or Denial of Applications for Certificates of Appropriateness

- (A) The Board of Review may advise and make recommendations to the applicant before acting on an application for a certificate of appropriateness.
- (B) If an application for a certificate of appropriateness:
 - (1) is approved by the Board of Review; or,
 - (2) is not acted on by the Board of Review;

Within thirty (30) days after it is filed, a certificate of appropriateness shall be issued. If the certificate is issued, the application shall be processed in the same manner as applications for County building and demolition permits are processed. If no building or demolition permits are required by the County, the applicant may proceed with the work authorized by the certificate.

- (C) If the Board of Review denies an application for a certificate of appropriateness within thirty (30) days after it is filed, the certificate may not be issued. The Board of Review must state its reasons for the denial in writing and advise the applicant. An application that has been denied may not be processed as an application for a County building or demolition permit and does not authorize any work by the applicant.
- (D) The Board of Review may grant an extension of the thirty (30) day limit prescribed by subsections (B) and (C) if the applicant agrees to it.

810-10. Reconstruction, Alteration, Maintenance and Removal of Historic Buildings and Structures; Preservation of Historic Character

- (A) A historic building or structure or any part of or appurtenance to such a building or structure, including stone walls, fences, light fixtures, steps, paving, and signs may be moved, reconstructed, altered, or maintained only in a manner that will preserve the historical and architectural character of the building, structure, or appurtenance.
- (B) A historic building may be relocated to another site only if it is shown that preservation on its current site is inconsistent with subsection (A).

810-11. Demolition of Buildings Following Failure to Secure Certificates of Appropriateness; Notice

- (A) The purpose of this section is to preserve historic buildings that are important to the education, culture, traditions, and economic values of the County, and to afford the County, historical organizations, and other interested persons the opportunity to acquire or to arrange for the preservation of these buildings.
- (B) If a property owner shows that a historic building is incapable of earning an economic return on its value, as appraised by a qualified real estate appraiser, and the Board of Review fails to approve the issuance of a certificate of appropriateness, the building may be demolished. However, before a demolition permit is issued or demolition proceeds, notice of proposed demolition must be given for a period fixed by the Board of Review, based on the Board of Review's classification on the approved map but not less than sixty (60) days nor more than one (1) year. Notice must be posted on the premises of the building proposed for demolition in a location clearly visible from a public road. In addition, notice must be published in a newspaper of general local circulation at least three (3) times before demolition, with the first publication not more than fifteen (15) days after the application for a permit to demolish is filed, and the final publication at least fifteen (15) days before the date of the permit.
- (C) The Board of Review may approve a certificate of appropriateness at any time during the notice period under subsection (B). If the certificate is approved, a demolition permit shall be issued without further delay, and demolition may proceed.

810-12. Conformance to Statutory Requirements for Buildings

Historic buildings shall be maintained to meet the applicable requirements established under statute for buildings generally.

810-13. New Buildings and Nonhistoric Buildings within Historic Districts; Compatibility Required

The construction of a new building or structure, and the moving, reconstruction, alteration, major maintenance, or repair involving a color change conspicuously affecting the external appearance of any nonhistoric building, structure, or appurtenance within the primary area of the Historic District must be generally of a design, form, proportion, mass, configuration, building material, texture, color, and location on a lot compatible with other buildings in the Historic District, particularly with buildings designated as historic, and with squares and places to which it is visually related.

810-14. Compatibility Factors

Within the primary area of the Historic District, new buildings and structures, as well as buildings, structures, and appurtenances that are moved, reconstructed, materially altered, repaired, or changed in color, must be visually compatible with buildings, squares, and places to which they are visually related generally in terms of the following visual compatibility factors:

- (A) **Height.** The height of proposed buildings must be visually compatible with adjacent buildings.
- (B) **Proportion of building's front facade.** The relationship of the width of a building to the height of the front elevation must be visually compatible to buildings, squares, and places to which it is visually related.
- (C) **Proportion of openings within the facility.** The relationship of the width of the windows to the height of windows in a building must be visually compatible with buildings, squares, and places to which it is visually related.
- (D) **Rhythm of solids to voids in front facades.** The relationship of solids to voids in the front facade of a building must be visually compatible with buildings, squares, and places to which it is visually related.
- (E) **Rhythm of spacing of buildings on streets.** The relationship of a building to the open space between it and adjoining buildings must be visually compatible to the buildings, squares, and places to which it is visually related.
- (F) **Rhythm of entrances and porch projections.** The relationship of entrances and porch projections to sidewalks of a building must be visually compatible to the buildings, squares, and places to which it is visually related.
- (G) **Relationship of materials, texture, and color.** The relationship of the materials, texture, and color of the facade of a building must be visually compatible with the predominant materials used in the buildings to which it is visually related.
- (H) **Roof shapes.** The roof shape of a building must be visually compatible with the buildings to which it is visually related.
- (I) **Walls of continuity.** Appurtenances of a building, such as walls, wrought iron fences, evergreen landscape masses, and building facades, must form cohesive walls of enclosure along the street if necessary to ensure visual compatibility of the building to the buildings, squares, and places to which it is visually related.
- (J) **Scale of a building.** The size of a building and the building mass of a building in relation to open spaces, windows, door openings, porches, and balconies must be visually compatible with the buildings, squares, and places to which it is visually related.

related.

- (K) **Directional expression of front elevation.** A building must be visually compatible with the buildings, squares, and places to which it is visually related in its directional character, including vertical character, horizontal character, or nondirectional character.

810-15. Phases; Certificate of Appropriateness; Objections

- (A) An ordinance approving the establishment of a Historic District may provide that the establishment of the Historic District occur in two (2) phases. Under the first phase, which lasts three (3) years from the date the ordinance is adopted, a certificate of appropriateness is required only for the activities described in section 7(A)(1), 7(A)(2), and 7(A)(4) of this chapter. At the end of the first phase, the district becomes fully established, and, subject to subsection (B), a certificate of appropriateness must be issued by the Board of Review before a permit may be issued for or work may begin on an activity described in section 10 of this chapter.
- (B) The first phase described in subsection (A) continues and the second phase does not become effective if a majority of the property owners in the district object to the Board or Review, in writing, to the requirement that certificates of appropriateness be issued for the activities described in section 7(A)(3), 7(B)(1), and 7(B)(2) of this chapter. The objections must be received by the Board of Review not earlier than one hundred eighty (180) days or later than sixty (60) days before the third anniversary of the adoption of the ordinance.

810-16. "Interested Party" Defined; Private Rights of Action; Allegations; Bond; Liability; Attorney Fees and Costs; Revenue; Other Remedies

- (A) As used in this section, "interested party" means one (1) of the following:
 - (1) the Board of Commissioners;
 - (2) the Monroe County Plan Commission;
 - (3) a neighborhood association, whether incorporated or unincorporated, a majority of whose members are residents of a Historic District designated by an ordinance adopted under this chapter;
 - (4) an owner or occupant owning or occupying property located in a Historic District established by an ordinance adopted under this Chapter;
 - (5) Historic Landmarks Foundation of Indiana, Inc., or any of its successors; or
 - (6) the state historic preservation officer designated under IC 14-3-3.4-10.
- (B) Every interested party has a private right of action to enforce and prevent violation of a provision of this chapter or an ordinance adopted under this chapter, and with respect to any building, structure, or site within a Historic District, has the right to restrain, enjoin, or enforce by restraining order or injunction, temporarily or permanently, any person from violating a provision of this chapter or an ordinance adopted under this chapter.

- (C) The interested party does not have to allege or prove irreparable harm or injury to any person or property to obtain relief under this section.
- (D) The interested party bringing an action under this section does not have to post a bond unless the court, after a hearing, determines that a bond should be required in the interest of justice.
- (E) The interested party that brings an action under this section is not liable to any person for damages resulting from bringing or prosecuting the action unless the action was brought without good faith or without a reasonable belief that a provision of this chapter, or an ordinance adopted under this chapter, had been, or was about to be violated or breached.
- (F) An interested party who obtains a favorable judgment in an action under this section may recover reasonable attorneys fees and court costs from the person against whom judgment was rendered.
- (G) An action arising under this section must be brought in the Monroe County Circuit Court and no change of venue from the County shall be allowed in the action.
- (H) The remedy provided in this section is in addition to other remedies that may be available at law or in equity.

[end of chapter]