

## **HP: Historic Preservation Overlay District**

### **154.245 INTENT.**

The HP: Historic Preservation District is an overlay or secondary zoning district which is intended to preserve and protect the historic or architecturally worthy buildings, structures, sites, monuments, streetscapes and neighborhoods within St. Joseph County, Indiana, which impart a distinct aesthetic quality to the County and which serve as visible reminders of the historic heritage of the County.

(Ord. 51-05, § 8.07.01, passed 5-10-2005)

### **154.246 PERMITTED USES.**

The HP Historic Preservation District shall be an overlay district only and shall not eliminate the pre-existing zoning classification.

(Ord. 51-05, § 8.07.01A, passed 5-10-2005)

### **154.247 DEVELOPMENT STANDARDS.**

All uses permitted in the zoning district which is also subject to the HP Historic Preservation District shall be permitted subject to terms, conditions and standards in that zoning district; provided, however, that such permitted uses shall be subject to the provisions of this HP: Historic Preservation District, as the same may be amended and supplemented from time to time, which ordinance concerns itself with historic preservation and enhancement.

(Ord. 51-05, § 8.07.01B, passed 5-10-2005) Penalty, see § 154.999

### **154.248 ESTABLISHMENT.**

There is established and perpetuated an Historic Preservation Commission with the membership and general powers and duties as set forth in the Interlocal Agreement between St. Joseph County and the City of South Bend, dated December 12, 2017 as the same may be amended from time to time in accordance with the law. (*Ord. No.7-18; 1/9/2018*)

(Ord. 51-05, § 8.07.01C, passed 5-10-2005)

### **154.249 MEMBERSHIP.**

(A) A nonpartisan Historic Preservation Commission of nine members shall continue to be appointed, all whom shall be interested and knowledgeable in historic preservation in the local area. The membership shall be appointed as follows: (*Ord. No.7-18; 1/9/2018*)

(1) The Board of Commissioners of the county and County Council, the Mayor, and Common Council of the City of South Bend, and shall each appoint two at-large

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members, designating not more than one member from any major political party and giving consideration to persons residing in areas having historic significance; and,

(2) The eight members appointed as provided in (A)(1) above shall in turn appoint the ninth member, who shall be an architectural historian.

(B) Each member of the Historic Preservation Commission shall serve without compensation for a term of three (3) years, which terms shall continue to be staggered in accordance with the original provisions for appointment in effect in 1973 which was then as follows: (*Ord. No.7-18; 1/9/2018*)

(1) The Board of Commissioners of the county and County Council, the Mayor and Common Council of the City of South Bend, each shall make one appointment for a term of one year and one appointment for a term of two years; and,

(2) The ninth member shall be appointed for a term of three years.

(C) If a vacancy occurs by resignation or otherwise, the unexpired term shall be filled within 30 days of such vacancy by the appropriate appointing body.

(D) Whenever a Commissioner fails to attend four consecutive, regularly scheduled meetings, the Historic Preservation Commission may determine the position to be vacant and certify to the appropriate appointing body the position is vacant. Within a reasonable time after receiving such certification, the appropriate appointing body shall appoint another and different Commissioner for the remainder of the unexpired term. (*Ord. No.7-18; 1/9/2018*)

(E) Each member of the Historic Preservation Commission will serve at the pleasure of his or her appointing body, and may be removed at any time for any reason or no reason. (*Ord. No.7-18; 1/9/2018*)

Ord. 51-05, § 8.07.01D, passed 5-10-2005) 154.250 RESERVED. (*Ord. No.7-18; 1/9/2018*)

**154.251 RESERVED.** (*Ord. No.7-18; 1/9/2018*)

**154.252 RESERVED.** (*Ord. No.7-18; 1/9/2018*)

**154.253 HISTORIC LANDMARK DESIGNATION AND HISTORIC PRESERVATION DISTRICT ESTABLISHMENT.**

(A) The Historic Preservation Commission shall survey, identify, plan for, and advise the County Council and the Area Plan Commission concerning the designation of historic landmarks and the establishment of Historic Preservation Districts located within the unincorporated areas of St. Joseph County. The Historic Preservation Commission shall recommend the designation of historic landmarks and the establishment of Historic Preservation Districts on the basis of historical and cultural significance, educational value, and suitability for preservation. (*Ord. No.7-18; 1/9/2018*)

(B) Historic landmarks shall be designated and Historic Preservation Districts established by the County Council through the passage of an ordinance. Said ordinance shall be initiated in the usual manner:

- (1) By a member of the County Council;
- (2) By a petition of the owners of fifty percent or more of the subject area; or,
- (3) By the Area Plan Commission.

(C) If any proposed ordinance is introduced to the County Council for the purpose of creating a new Historic Preservation District, or repealing, altering, or modifying an established Historic Preservation District, then prior to referral to the Area Plan Commission, the proposed ordinance shall be referred by the County Council to the Historic Preservation Commission which shall hold a Public Hearing within 90 days of the referral, unless such public hearing was conducted by the Historic Preservation Commission prior to introduction of the proposed ordinance which shall satisfy this requirement of a public hearing. The public hearing before the Historic Preservation Commission shall be for the purpose of hearing comments on the proposed ordinance and for the purpose of delivering either a favorable or unfavorable recommendation to the County Council. Notice of such hearing shall be given to all the owners of property in the affected Historic Preservation District. Failure of the Historic Preservation District to deliver a recommendation within 90 days following referral by the County Council shall be considered a favorable recommendation.

(D) If any proposed ordinance is introduced to the County Council for the purpose of creating a new historic landmark, or repealing, altering, or modifying an established historic landmark, then prior to the County Council's public hearing, the proposed ordinance shall be referred by the County Council to the Historic Preservation Commission which shall hold a public hearing within 90 days of the referral, unless such public hearing was conducted by the Historic Preservation Commission prior to introduction of the proposed ordinance which shall satisfy this requirement of a public hearing. The public hearing before the Historic Preservation Commission shall be for the purpose of hearing comments on the proposed ordinance and for the purpose of delivering either a favorable or unfavorable recommendation to the County Council. Notice of such a hearing shall be given to all the owners the affected historic landmark. Failure of the Historic Preservation Commission to deliver a recommendation within 90 days following referral by the County Council shall be considered a favorable recommendation.

(E) Interim Protection.

(1) Upon the first reading of a proposal for a historic landmark before the Historic Preservation Commission or upon the filing of an ordinance before the County Council for the purpose of creating a new historic landmark, the Commission may declare such proposed new landmark to be under interim protection.

(2) Not more than two working days after declaring a building, structure, or site to be under interim protection under this section, the Historic Preservation Commission shall

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provide the owner of the building, structure or site with a written notice of declaration by personal delivery or certified mail. The Historic Preservation Commission shall also notify the County Council and the St. Joseph County/South Bend Building Department. In the event the owner cannot be located after due diligence, the Historic Preservation Commission shall affix a notice of interim protection to the building, structure. or site. Written notice under this division must:

(a) Cite the authority of the Historic Preservation Commission to put the building, structure, or site under interim protection under this section;

(b) Explain the effect of putting the building, structure, or site under interim protection; and,

(e) Indicate that the interim protection is for a maximum period of six months.

(3) A building or structure put under interim protection under this subsection remains under interim protection for a period of six months or until an ordinance designating the landmark is approved or rejected by the County Council, whichever occurs first.

(4) While a building, structure, or site is under interim protection under this section:

(a) The building, structure, or site may not be demolished or moved; and,

(b) The exterior appearance of the building, structure, or site may not be conspicuously changed by:

1. Addition;
2. Reconstruction; or,
3. Alteration.

(5) The Commission may approve a Certificate of Appropriateness at any time during the period of interim protection, provided the proposed change meets the criteria for considering effect of actions on historic buildings in § 154.254, below, of this Ordinance and any proposed preservation guidelines prepared by the Historic Preservation Commission for the affected building, structure, or site.

(Ord. 51-05, § 8.07.01H, passed 5-10-2005)

**154.254 PROCEDURES AND RESPONSIBILITIES WITHIN HISTORIC PRESERVATION DISTRICTS.**

Within HP Historic Preservation Districts, the Historic Preservation Commission shall have the following powers:

(A) The Historic Preservation Commission shall issue a certificate of appropriateness before any one of the following actions is taken: the construction, reconstruction, alteration, demolition, or moving of any exterior feature of any building, structure or use. This provision shall be in force on the effective date of the ordinance codified in this chapter. Certificates of appropriateness shall be issued in accordance with the stipulations of this chapter.

(B) Nothing in this chapter shall be construed to prevent the ordinary maintenance and repair of any building, structure, or use which will not involve a change in any exterior features or to prevent the construction, reconstruction, alteration, demolition, or moving of any building, structure, or use which the Building Commissioner or other official having such power may certify as required by the public safety because of an unsafe or dangerous condition.

(C) An application for a building permit, demolition permit, sign permit, or moving permit shall also be deemed to be an application for a certificate of appropriateness. Within five working days of receipt of such application relative to a building, structure, or use in said district, the Building Commissioner shall forward the application to the Historic Preservation Commission for review and approval prior to the issuance of a permit.

(D) Where no other permit is required, an application for a certificate of appropriateness shall be filed with the Historic Preservation Commission on the form prescribed by the Commission. Said application shall include the following information:

1. Name, address and telephone number of the applicant;
2. Location of the subject building, structure, or use;
3. Structural drawings and specifications, floor plans, elevations, cross sectional plans, renderings, diagrams, or other such plans;
4. Landscaping plans;
5. Samples of materials to be used, including colors;
6. Where the proposed change includes a sign, a scale drawing showing the location of the sign on the structure or property, the type of lettering, and the method of illumination; and,
7. Other such information as the Historic Preservation Commission may require under the provisions of this chapter.

(E) The Historic Preservation Commission shall consider the application within 30 days following its receipt of the application for a certificate of appropriateness, and shall either:

1. Issue a certificate of appropriateness stating that the proposed construction, reconstruction, alteration, demolition, or moving is in conformance with the provisions of this chapter and authorizing the Building Commissioner to issue a building permit, demolition permit, sign permit, or moving permit if required; or,

2. Deny the application stating in writing the reason(s) for such denial. Upon such denial, the applicant may appeal said denial to the County Council which shall make a final determination of the application. Failure of the Historic Preservation Commission to take action within 45 days after receipt of the application by the Commission shall constitute approval of the application.

(F) In making a determination regarding a certificate of appropriateness, the Historic Preservation Commission shall consider the following:

1. Appropriateness of the proposed construction, reconstruction, alteration, demolition, or moving to the preservation of the historic landmark, specifically, and/or the historic preservation district, generally;

2. The detriment to the public welfare if the proposed construction, reconstruction, iteration, demolition, or moving is permitted even though it is not deemed appropriate; and,

3. The potential hardship that the denial of a certificate of appropriateness would cause the applicant.

(G) The Historic Preservation Commission may petition the Building Commissioner to use the legal means available to him to cause the maintenance and/or repair of any historic landmark in accordance with the intent of this subchapter.

(H) Within each of the historic preservation districts established in accordance with the provisions of this subchapter, the Historic Preservation Commission shall establish neighborhood development committees to advise the Historic Preservation Commission in matters relative to the district which the Committee represents.

(Ord. 51-05, § 8.07.01I, passed 5-10-2005)

#### **154.255 HISTORIC LANDMARKS AND DISTRICTS – ESTABLISHMENT OF PRESERVATION STANDARDS.**

The Historic Preservation Commission shall establish reasonable and just standards for the preservation of historic landmarks and Historic Preservation Districts located within the unincorporated areas of St. Joseph County, including architectural treatment, site development requirements and provisions concerning construction, reconstruction, alteration, demolition, or removal of any building or structures, or parts thereof provided, however, that no standards may

be adopted that are not in keeping with the intent and purpose of this Chapter, and such standards shall be applicable only to exterior features of historic landmarks and of buildings and structures within Historic Preservation Districts. (*Ord. No.7-18; 1/9/2018*)

(Ord. 51-05, § 8.07.01J, passed 5-10-2005)

**154.256 HISTORIC LANDMARKS AND DISTRICTS--DEVELOPMENT OF PLANS.**

The Historic Preservation Commission shall develop historic preservation plans for historic landmarks and districts and, together with other public or private agencies or officials, assist in the administration and implementation of such plans.

(Ord. 51-05, § 8.07.01K, passed 5-10-2005)

**154.257 RESERVED.** (*Ord. No.7-18; 1/9/2018*)

**154.258 RESERVED.** (*Ord. No.7-18; 1/9/2018*)

**154.259 REQUESTS TO COUNTY COUNCIL TO DELAY ALTERATION OF HISTORIC LANDMARKS.**

(A) Where the Historic Preservation Commission deems it necessary, the Commission may petition the County Council for a temporary delay in the issuance of the required permit(s) for proposed construction, reconstruction, alteration, demolition, or moving of a designated historic landmark for the purpose of preparing a preservation plan for said landmark. Such petition shall be for a specified period of time.

(B) The County Council, by resolution or ordinance, shall approve the Commission's petition when it finds that:

1. Such action will not cause the owner of the subject property to suffer hardship;
  2. Such delay will not be injurious to the public health, safety, or welfare;
- and,
3. In keeping with the intent of this chapter, such action is necessary and appropriate. In no case may the delay approved by the County Council exceed one year, but the Commission may petition the County Council for a continuance of any such delay approved by the County Council in accordance with the same procedures set forth above for the initial petition.

(Ord. 51-05, § 8.07.01N, passed 5-10-2005)

**154.260 GIFTS, GRANTS, LEGACIES, BEQUESTS AND ENDOWMENTS.**

The Historic Preservation Commission may accept, in the name of the City of South Bend, through gift, grant, legacy, bequest, or endowment monies and preservation easements in real property for the purpose of the preservation of historic landmarks and Historic Preservation Districts. Such monies, regardless of the source, must be deposited and may be expended only in accordance with the terms of the Interlocal Agreement between St. Joseph County and the City of South Bend, dated December 12, 2017 as the same may be amended from time to time in accordance with the law. (*Ord. No.7-18; 1/9/2018*)

Ord. 51-05, § 8.07.01O, passed 5-10-2005)

**154.261 PROCESSING NATIONAL REGISTER OF HISTORIC PLACES INVENTORY--NOMINATION FORMS.**

The Historic Preservation Commission, as the local government certified by the Indiana State Historic Preservation Officer and the Secretary of the Interior of the United States, shall process National Register of Historic Places Inventory - Nomination Forms, with respect to any property located in the unincorporated areas of St. Joseph County, in accordance with regulations established by the Historic Preservation Commission consistent with the Indiana Certified Local Government Regulations. (*Ord. No.7-18; 1/9/2018*)

(Ord. 51-05, § 8.07.01P, passed 5-10-2005)

**154.262 ACCEPTANCE OF CONSERVATION EASEMENTS.**

The Historic Preservation Commission shall receive and accept preservation easements, determined by the Commission to be appropriate and acceptable, as follows:

(A) The preservation easements shall be created and conveyed in accordance with the provisions of I.C. 32-23-1 et seq. (“Act”);

(B) The Commission shall receive, accept, administer, monitor and enforce the preservation easements in accordance with the provisions of the Act and rules and regulations adopted by the Commission under the Interlocal Agreement between St. Joseph County and the City of South Bend, dated December 12, 2017, as the same may be amended from time to time in accordance with the law. (*Ord. No.7-18; 1/9/2018*)

(C) The Commission may charge any person granting a preservation easement to the Commission a filing fee and an administration fee, as such fees may be prescribed by the Commission from time to time. The fees shall be reasonably related to the Commission’s costs of processing, recording and periodically reviewing and monitoring the preservation easements; (*Ord. No.7-18; 1/9/2018*)

(D) The Commission may enforce the terms and provisions of the documents creating any preservation easement and may collect from the person or persons against whom such enforcement is sought the Commissions costs of enforcement, including without limitation court



costs and attorneys' fees, and the document creating any preservation easement accepted by the Commission shall provide for the payment of such enforcement costs;

(E) The Commission may accept a preservation easement only if all persons with an interest in the subject real property at the time that the easement is granted join in the grant and conveyance of the easement to the Commission; and,

(F) As used herein, "preservation easement" means a non-possessory interest of the Historic Preservation Commission in real property imposing limitations or affirmative obligations for the purpose of preserving the historical, architectural, archaeological, or cultural aspects of such real property.

(Ord. 51-05, § 8.07.01Q, passed 5-10-2005)

**154.263 FEES OF CERTIFICATES OF APPROPRIATENESS.**

The submission of a certificate of appropriateness shall be accompanied by fees as prescribed by the Historic Preservation Commission from time to time. (*Ord. No.7-18; 1/9/2018*)

(Ord. 51-05, § 8.07.01R, passed 5-10-2005)