

## **ORDINANCE # 2020-27**

### **ORDINANCE REPLACING 2006-32, CITY OF GREENSBURG HISTORICAL PRESERVATION ORDINANCE**

**WHEREAS**, the City Council of the City of Greensburg, Indiana, declares that the research, protection, maintenance, restoration, rehabilitation, reconstruction, or development of historic districts is in the public interest; and,

**WHEREAS**, it is the intent of this ordinance to provide a means to promote the cultural, economic, and general welfare of the public through the preservation and protection of structures and areas of historic and cultural interest within the City of Greensburg; and

**WHEREAS**, it is the intent of this ordinance to implement a comprehensive program of historic preservation by the establishment of a historic preservation district or districts, and to streamline and simplify the process to promote business, and investment of growth in the Historic District in accordance with the provisions set forth below, now therefore;

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GREENSBURG, INDIANA:

#### **Section 1. Purpose and Definitions**

Purpose of historic preservation and protection: in order to promote the educational, cultural in general welfare to ensure the harmonious orderly growth and development of the municipality; to maintain Established residential neighborhoods in danger of having their distinctiveness destroyed; to enhance property values and attract new residents; to ensure the viability at the traditional downtown area and to enhance tourism within the city of Greensburg; It is deemed essential by the City of Greensburg the qualities relating to its history and harmonious outward appearance of it structures be preserved. This purpose is advanced to the restoration and preservation of historic areas and buildings, the construction of compatible new buildings where appropriate, and the maintenance and insurance of where compatibility in regards to style, form, proportion, texture, immaterial between historic buildings and those of contemporary design. Is the intention of the city of Greensburg through this audience to preserve and protect historic and architecturally worthy buildings, structures, sites, monitor, streetscapes, in the neighborhood which in part a distinct aesthetic quality to the city and serve as a visible reminder service historic character.

Definitions: the following terms shall have the following meaning unless a contrary meaning is required by the context or specifically prescribed. Words in the present tense includes the future tense. The singular number includes the plural, in the plural, the singular. The word "shall" is always mandatory. The word "person "includes a firm, a partnership, a limited liability company, or a corporation, as well as an individual. Terms not defined in this section shall have the meaning customarily assigned to them.

"Alteration:" a material or color change in the external architectural features of any building, structure, or site within a historic district.

“City:” the city of Greensburg, Indiana.

“Building Commissioner:” the duly appointed Building Commissioner of the city of Greensburg.

“Council:” the elected common body of the City of Greensburg, its legislative body.

“Demolition:” the complete or substantial removal of any building, structure, or site located in historic district.

“Historic district:” a single building, structure, object, or site or a concentration of buildings, structures, objects, spaces, or sites, the boundaries of which are described or delineated on a map approved in an ordinance adopted under this title. (See Exhibit A)

“Interested party”: means one of the following:

1. The Mayor
2. The City Council
3. The city plan commission
4. An owner or occupant of property located in a historic district established by an ordinance adopted under this title.
5. Historic Landmarks Foundation of Indiana, Inc., or any of its successors
6. the state historic preservation officer designated under I.C. 14-3-3.4-10.

“Mayor:” The duly elected mayor of the city of Greensburg, its chief executive.

“Preservation guidelines:” criteria, locally developed, which identify local design concerns in an effort to assist property owners in maintaining the character of the designated district or buildings during the process of rehabilitation or new construction. The Building Commissioner with the Plan Commissions approval develops and adopts the guidelines.

“Primary area:” the principle area of historic and /or architectural significance within a historic district as delineated on map establishing the boundaries of the historic district.

“Routine maintenance:” Work for which no certificate of appropriateness is required.

“Secondary area:” an area in his delineated on the map establishing the boundaries of historic district that is adjacent to a primary area and which has a visual relationship to the primary area and could affect the preservation of the primary area. The purpose of designating a secondary area is to assure its compatibility and harmony with an adjacent, primary area.

“Streetscape” appearance from a public way, this distinguished characteristics of which are created by the width of a street in sidewalks, there paving materials in color, The design of the street furniture ( e. g., street lights, trash receptacles, benches, etc.) Use of plant materials such as trees and shrubs, in the set back, mask, and proportion of those buildings which enclose the street.

“Visual compatibility:” those elements of design that meet the guidelines set out in Section 8 of this title.

## **Section 2. Powers and Duties of the Commissioner**

- a. The Building Commissioner shall be concerned with those elements of development, redevelopment, rehabilitation, and preservation that affect visual quality and historic district, which include but are not limited to viewsheds, landscapes, and streetscapes of historic importance. The Building Commissioner may not consider details of design, interior arrangements, or building features, if those details, arrangements, or features are not subject to public view, and may not make the requirement except for the purpose of preventing development, alteration, or demolition in the historic district obviously incongruous with the historic district.
- b. The Building Commissioner may adopt preservation guidelines for architectural review. If adopted, preservation guidelines shall be published and made readily accessible to the general public.
- c. The Building Commissioner has the authority to receive funds in order to promote its stated purpose.
- d. The Building Commissioner shall promote public interest in historic preservation by initiating and carrying on a public relations and community education program.

## **Section 3. Certificate of Appropriateness (COA)**

1. **A Certificate of Appropriateness (COA) is required.** A Certificate of Appropriateness must be issued by the Building Commissioner before a permit is issued for, or work is begun on, any of the following:
  - a. The demolition of any building or structure
  - b. The moving of any building or structure
  - c. A conspicuous change in the exterior appearance of any historic building or any part of such a building, including walls, fences, doors, windows, lighting fixtures, steps, paving, and signs by additions, reconstruction, alteration, or maintenance involving exterior color change.
  - d. Any new construction of a building, addition, or exterior change.
2. **Application for Certificates of Appropriateness.** An application for a Certificate of Appropriateness shall be made in the Building, Planning, and Zoning Office, 314 West Washington Street, Greensburg on forms provided by the Building Commissioner. All applications shall be subject to the rules and requirements established by the City Council. Rules may include, but are not limited to, filing fees or deadlines and application requirements such as sketches, drawings, photographs, descriptions, or other information which the City requires to make a decision.
3. **Approval or denial of Certificates of Appropriateness.** The Building Commissioner should confer with the Executive Director of Main Street Greensburg and may approve or deny Certificates of Appropriateness for any actions covered by this title. If an application for a Certificate of Appropriateness is not acted on by the Building Commissioner within 30 days after it is filed, a Certificate of Appropriateness shall be issued. The Building Commissioner may grant an extension of the 30-day limit if the applicant agrees to it. The Building Commissioner must report its findings and the reasons for its decision in written form and supply the applicant with a copy of its report. A copy

of the Certificate of Appropriateness must be submitted with the application for a building or demolition permit; no building or demolition permit shall be issued unless a copy of the Certificate of Appropriateness is provided by the applicant with the application. If work proceeds without a Certificate of Appropriateness than a STOP work order may be issued. Any person aggrieved by the Building Commissioners decision may appeal to the City Plan Commission, with a 10-day written notice before the next regularly scheduled meeting.

4. **Criteria for considering effect of actions on historic buildings:** The Building Commissioner, in considering the appropriateness of any work shall require that work be done in a manner that preserves the historical and architectural character of the building, structure, or appurtenance. In considering historic and architectural character, the Building Commissioner shall consider, among other things, the following:
- (a) Purposes of this title.
  - (b) Historical and architectural value and significance the building, structure, site or appurtenance.
  - (c) Compatibility or insignificance of additions, alterations, details, materials, or other non-original elements, which may be of a different style and construction date than the original.
  - (d) The texture, material, color, style, and detailing of the building, structure, site or appurtenance.
  - (e) The continued preservation and protection of original or otherwise significant structure, material, and ornamentation.
  - (f) The relationship of buildings, structures, appurtenances, or architectural features similar to one within the same historic district, including, visual compatibility as defined in Section 1.
  - (g) The position of the building or structure in relation to the street, public right of way and to other buildings and structures.

#### **Section 4. Visual Compatibility**

1. For new construction, contemporary design, and non-historic buildings: to preserve and encourage the integrity of historic buildings, structures, sites, monuments, streetscape, and neighborhoods and to ensure their compatibility with any new work, the construction of a new building or structure, and the moving, reconstruction, alteration, color change, major maintenance, or repair conspicuously affecting the external appearance of any non-historic building, structure, or design, form, proportion, mass, Good configuration, building material, texture, color, and location on a lot compatible with other buildings in the historic district and with places to which it is visually related.

2. Criteria for considering visual compatibility: Within the primary area of a historic district, new buildings, 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 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 buildings front facade: the relationship of the width of the building to the height at the front elevation must be visually compatible with 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) Relationship 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 with buildings, squares, and places to which it is visually related.

(f) Rhythm of entrances and porch projections: the relationship of entrances in porch projections of a building to sidewalks must be visually compatible with 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 buildings, squares, and places to which it is visually related.

(h) Roof shapes: the roof shape of a building must be visually compatible with buildings, squares, and places to which it is visually related.

(i) Wall of continuity: appurtenances of a Building or site, 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 in places to which it is visually related.

(j) Scale of the 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 and places to which it is visually related.

(k) Directional expression of front elevation: a building must be visually compatible with buildings, squares, and places to which it is visually related in its directional character, including vertical character, horizontal character, or non- directional character.

#### **Section 5. Preservation of Historical and Architectural Character Upon Alteration or Relocation Mandated**

1. 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.
2. A historic building may be relocated to another site only if it is shown that preservation on its current site is inconsistent with subsection (1).

#### **Section 6. Appeal Provisions**

1. Notwithstanding Section 6 (2), a decision by the Building Commissioner can be appealed to the Plan Commission with at least 10 days notice before the next regularly scheduled meeting. Appeals can be filed with the Building office or with the Mayor. Appeals need to specify in writing what error was made by the Building Commissioner. Through the appeals process the Plan Commission shall review the decision of the Building Commissioner in the more favorable outcome. The petitioner has the burden of egregious error.
2. If the Building Commissioner denies the issuance of a Certificate of Appropriateness for the demolition of a building, structure, or site, a demolition permit may be issued by other agencies and a building, structure, or site may be demolished but only after the property owner has demonstrated to

the building commissioner that the historic building, structure, or site is incapable of earning an economic return on its value, as appraised by a licensed real estate appraiser.

a. Notice of the proposed demolition must be given for a period fixed by the Building Commissioner, based on the Commissioners 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 or structure proposed for demolition in a location clearly visible from the street. 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 between fifteen (15) and twenty (20) days before the date of the permit.

3. The Building Commissioner may approve a Certificate of Appropriateness at any time during the notice. Under subsection (3). If the Certificate of Appropriateness is approved, a demolition permit shall be issued without further delay, and demolition may proceed.

### **Section 7. Maintenance**

1. Historic buildings, structures, and sites shall be maintained to meet the applicable requirements established under state statute and local code for buildings generally so as to prevent the loss of historic material in the deterioration of important character defining details and features.

2. Ordinary repairs and maintenance: nothing in this section shall be construed so as to prevent the ordinary repairs and maintenance of any building, structure, or site, provided that such repairs or maintenance do not result in a conspicuous change in the design, form, proportion, mass, configuration, building material, texture, color, location, or external visual appearance of any structure, or part thereof.

### **Section 8. Interested Parties**

1. An Interested Party (as defined in Section 1 has a private right of action to enforce and prevent violation of provisions of this ordinance or an ordinance adopted by the city under this ordinance, and with respect to any building, structure, or site within a historic district, and has the right to restrain, enjoin, or enforce by restraining order or injunction, temporarily or permanently, any person from violating a provision of this ordinance or ordinance adopted under this ordinance.

2. 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.

3. 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.

4. 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 ordinance, or an ordinance adopted by a unit under this ordinance, had been, or was about to be violated.

5. An interested party who obtains a favorable judgment in an action under this section may recover reasonable attorney fees and court costs from the person against whom judgment was rendered.

6. An action arising under this section must be brought in the Circuit or Superior Court the County in which the historic district lies and no change of venue from the County shall be allowed in the action.

7. The remedy provided in this section is in addition to other remedies that may be available at law or in equity.

**Section 9. Enforcement, Penalties, and Judicial Review**

1. Any person, whether as principle, agent, owner, lessee, tenant, contractor, builder, architect, engineer, or otherwise, who violates any provision of this ordinance shall be subject to a fine as follows, for each offence:

(a) not less than ten dollars (\$10.00) nor more than five thousand dollars (\$5,000) for demolition.

(b) not less than ten dollars (\$10.00) nor more than two thousand five hundred dollars (\$2500) for all other offenses. In addition to monetary fines, the restoration of the offense to as close to the original as possible shall occur at offender’s expense.

2. Each day of the existence of any violation of this ordinance shall be a separate offense.

3. The erection , construction, enlargement, alteration , repair, demolition, color change, moving, or maintenance of any building, structure, or appurtenance which is begun, continued, or maintained contrary to any provisions of this ordinance is hereby declared to be a nuisance and in violation of this ordinance and unlawful. The City may Institute a suit for injunction in the Circuit Court or Superior Court of Decatur County to restrain any person or government unit from violating any provision of this ordinance into cause such violation to be prevented, abated, or removed. Such action may also be instituted by any property owner who is adversely affected by the violation have any provision of this chapter.

4. The remedies provided for in this section shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law.

**Section 10. Severability**

If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

**Section 11. Effective Date**

This Ordinance shall become effective immediately upon passage and publication as provided by law.

ADOPTED AND PASSED by the Common Council of the City of Greensburg, Indiana this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

AYES

NAYS

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Jamie Cain

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Jamie Cain

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Rick Emsweller

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Rick Emsweller

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Kevin Fleetwood

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Darrell Poling

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Darrell Poling

Council Members

Council Members

Presented by me to the Mayor of the City of Greensburg, Indiana on this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Brenda Dwenger, Clerk-Treasurer

Approved and signed by me, the Mayor of the City of Greensburg, Indiana this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Joshua L. Marsh, Mayor