

**ENACTING CHAPTER 1488 (HISTORIC LANDMARKS AND BUILDINGS) OF THE  
CODIFIED ORDINANCES OF THE CITY OF SHELBY.**

**WHEREAS:** Cities and villages are increasingly searching for effective ways to protect their historic neighborhoods, downtowns, and landscapes and the irreplaceable character of the buildings and structures that define these places and provide them with visible evidence of their past; and

**WHEREAS:** For over 75 years, the local historic preservation ordinance has been an effective tool for accomplishing this goal; and

**WHEREAS:** By enacting a historic preservation ordinance and becoming a Certified Local Government (CLG), the City of Shelby becomes eligible for training, technical assistance, and additional benefits from the Ohio Historic Preservation Office and for CLG Grants to cover the costs of historic preservation planning, surveys, and inventories; National Register of Historic Places registration; development and acquisition of National Register properties; and public education; and

**WHEREAS:** It is in the interest of the public health, safety, and general welfare of the City of Shelby that Council enact a historic preservation ordinance so that the City may become a Certified Local Government.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SHELBY, A  
MAJORITY ELECTED THERETO CONCURRING:**

Section 1: That Chapter 1488 of the Codified Ordinances of the City of Shelby be enacted to read as follows:

**CHAPTER 1488  
Historic Landmarks and Buildings**

- 1488.01 Statement of purpose.
- 1488.02 Shelby Historic Preservation Commission.
- 1488.03 Duties of the Commission.
- 1488.04 Definitions.
- 1488.05 Standards for designating a landmark.
- 1488.06 Standards for designating a historic district.
- 1488.07 Procedures for designation of individual landmarks.
- 1488.08 Procedures for designation of historic districts.
- 1488.09 Procedures for review of proposed alterations to historic landmarks and properties within historic districts.
- 1488.99 Penalty.
- Appendix A The Secretary of the Interior's Standards for Rehabilitation.
- Appendix B The National Register of Historic Places and The Ohio Historic Inventory Defined.

**1488.01 STATEMENT OF PURPOSE.**

The purpose of this chapter is:

- (a) To preserve Shelby's distinctive character and its cultural, social, residential, commercial, industrial, educational, political, or architectural heritage for the enjoyment, enrichment, and benefit of the citizens of Shelby.
- (b) To foster economic vitality by publicly encouraging both private and public investment in Shelby's older buildings, neighborhoods and districts.
- (c) To foster civic pride in the beauty and notable accomplishments of the past.

- (d) To provide guidance for preservation and enhancement of existing historical structures and new structures in historic districts.
- (e) To act as liaison on behalf of the City of Shelby to individuals and groups concerned with historic preservation, and help property owners to make judicious and historically correct decisions relating to proposed modifications and/or repairs to historic structures.
- (f) To provide available preservation, restoration, and rehabilitation information to the citizens of Shelby.

**1488.02 SHELBY HISTORIC PRESERVATION COMMISSION.**

- (a) The Shelby Historic Preservation Commission is hereby created and shall consist of five members. Members shall be appointed by the Mayor and confirmed by City Council. A majority of the members shall be resident electors of the City.
- (b) Commission members shall each serve five-year staggered terms. In order to stagger the terms, the first members of the Commission shall be appointed as follows: One person to a term ending December 31, 2015; One person to a term ending December 31, 2016; One person to a term ending December 31, 2017; One person to a term ending December 31, 2018; and One person to a term ending December 31, 2019. Full terms shall commence on January 1. Any vacancy during the unexpired term of any appointed member shall be filled, within sixty days if possible, for the remainder of the term. Members shall serve without compensation.
- (c) All Commission members shall have a demonstrated special interest, experience, or knowledge of historic preservation, history, architecture, or related disciplines. At least two members of the Commission shall be preservation-related professionals in a field such as architecture, architectural history, history, archeology, planning, or a related area, if such are available in Shelby. However, no more than two members shall be employees of or policy-makers for any one non-governmental organization.
- (d) Upon appointment, the Commission shall convene and select a chair, vice chair, and secretary. The Commission may establish its own rules and regulations, subject to City Council approval.
- (e) The Commission shall establish its schedule of meeting times and places and shall meet at least once quarterly.
- (f) The Commission shall comply with state and local laws dealing with public meetings and shall provide adequate advance notice of meetings. Written and/or electronic minutes of Commission meetings shall be kept and made available for public inspection.
- (g) Commission members shall be subject to Shelby ordinances regarding conflict of interest and ethics as well as provisions on these subjects in the Ohio Revised Code.
- (h) No later than January 31 of each year, the Commission shall submit a written report to City Council that summarizes its activities, cases, special projects, recommendations, and the qualifications of its members for the previous year. Such reports shall be available for public inspection.
- (i) All Commission documents and materials shall be available for public inspection in compliance with Ohio's public records laws.

**1488.03 DUTIES OF THE COMMISSION.**

The Shelby Historic Preservation Commission shall have the following responsibilities:

- (a) It shall promote interest in historic preservation and educate Shelby citizens about historic preservation by holding workshops and preparing informational material, as appropriate.
- (b) The Commission shall recommend to City Council the designation of landmarks and historic districts according to the procedures set forth for such matters in Sections 1488.07 and 1488.08. It shall keep a list of designated landmarks and historic districts; furnish the list to the

Mayor, the Clerk of Council, and pertinent City Commissions; and make it available to the public.

(c) It shall issue Certificates of Appropriateness in response to applications for construction, preservation, restoration, reconstruction, rehabilitation, and/or demolition of any building, object or feature within any historic district, or of any designated landmark, according to the procedures set forth for such matters in Section 1488.09.

(d) It shall use the Secretary of Interior's Standards for Rehabilitation (Appendix A) and apply them within the City of Shelby as deemed appropriate by the Commission.

(e) It shall work with property owners to designate eligible Shelby landmarks, buildings, or structures on the National Register and to participate in the Ohio Historic Inventory (Appendix B).

(f) It shall review all proposed National Register nominations for properties within its jurisdiction.

(g) It shall advise other officials and departments in Shelby's city government regarding the protection of local cultural resources.

(h) It shall act as a liaison on behalf of the local government to individuals and organizations concerned with historic preservation.

(i) When the Commission considers a National Register nomination or other action, which is normally evaluated by a professional in a specific discipline, and that discipline is not represented on the Commission, the Commission may, upon authorization of City Council, seek expertise in this area before rendering its decision. It may be advised by technical consultants, under contract executed by the Mayor as Director of Public Service, as City finances permit, to assist it in performing its functions.

(j) It shall encourage its members to attend workshops, seminars, and other educational programs on historic preservation.

(k) It shall be responsible for maintaining a system for the survey and inventory of historic properties and cultural resources. All inventory material shall be recorded according to Ohio Historic Preservation Office guidelines, maintained securely, and made accessible to the public. The inventory shall be updated periodically to reflect alterations and demolitions.

(l) Additional responsibilities may be undertaken by the Commission upon mutual written agreement between the Ohio Historic Preservation Office and the City of Shelby.

#### **1488.04 DEFINITIONS.**

(a) "Alteration" means any material change in the external architectural features of any designated landmark. Nothing in this chapter shall be construed to prevent ordinary maintenance or repair of any designated property provided such work involves no change in material, design, texture or exterior appearance; nor shall anything in this chapter be construed to prevent any change, including the construction, reconstruction, alteration, or demolition of any feature which in the view of a duly authorized building official or Fire Chief is required for the public safety because of an unsafe, insecure, or dangerous condition.

(b) "Archeology" means the scientific study of the material remains of past human life and activities.

(c) "Certificate of Appropriateness" means a certificate issued by the Shelby Historic Preservation Commission indicating that a proposed alteration or demolition of a designated landmark or of a building or structure within a historic district is in accordance with the provisions of this chapter.

(d) "Cultural Resources" means the building, sites, objects, and districts that embody or convey Shelby's history.

(e) "Demolition" means the removal or destruction in whole or in part of any designated landmark, building, or structure, including those in historic districts.

#### **1488.05 STANDARDS FOR DESIGNATING A LANDMARK.**

(a) A Designated Landmark is any real property that has been designated as a historic landmark under the provisions of this chapter.

(b) To qualify as a designated landmark, real property must have integrity of design, material, and workmanship and have historic or cultural significance. Historically or culturally significant real property:

- (1) Is associated with an event(s) that has (have) made a significant contribution to the broad patterns of history; or
- (2) Is associated with the life of a person(s) significant in the past; or
- (3) Embodies the distinctive characteristics of a type, period, or method of construction; or which embodies the distinguishing characteristics of an architectural style, or a work of a noted architect or builder; or
- (4) Has yielded or is likely to yield information important to prehistory or history.

(c) Cemeteries, birthplaces, or graves of historic figures, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, reconstructed historic buildings, properties primarily commemorative in nature, and properties that have achieved significance within the past fifty years shall not be considered to be of historic significance unless they are integral parts of districts that meet the above criteria or unless they fall within the following categories:

- (1) A religious property which is primarily significant for its architecture or secular history; or
- (2) A relocated building which has a high degree of architectural significance or which is the primary building or structure associated with an individual or an event; or
- (3) The birthplace site or grave site of a historical figure if no other built feature survives which is directly associated with his or her productive life; or
- (4) A cemetery primarily important because of its age, distinctive design features, association with the graves of persons of transcendent importance, or which is associated with historic events; or
- (5) A reconstructed building or structure when accurately represented in a suitable environment as part of a restoration master plan and when no other building or structure with the same association has survived; or
- (6) A property primarily commemorative in intent if design, age, tradition, or symbolic value have given it significance; or
- (7) A property achieving significance within the past fifty years if it is of exceptional importance or is unique in the City of Shelby.

#### **1488.06 STANDARDS FOR DESIGNATING A HISTORIC DISTRICT.**

(a) A Historic District is any area which has been designated a historic district under the provisions of this chapter.

(b) In addition to meeting at least one of the above criteria for historic landmarks, proposed historic districts must also meet the following criteria:

- (1) The proposed area must be defined by boundaries that set the area off in relation to its surroundings;
- (2) The area within the proposed boundaries must have a high degree of historic integrity, without excessive loss of architectural or historic character; and
- (3) The area within the proposed boundaries must have an internal historic cohesiveness in the sense of a shared common history of its inhabitants, historical development according to a master plan, shared architectural styles or designs, or a body of architecture illustrating the evolution of architectural styles over a period of time.

#### **1488.07 PROCEDURES FOR DESIGNATION OF INDIVIDUAL LANDMARKS.**

(a) When a proposal to designate an individual property as a landmark is received from a property owner or initiated by the Commission, the Commission shall consider the proposal in terms of the criteria defined in Section 1488.05 and make a recommendation to City Council.

(b) For proposed individual landmarks, the following procedure shall be followed:

(1) The owner(s) shall be notified by personal service or certified mail that the property is being considered for designation by the Commission. The notice shall include the date, time, and place of a public hearing relative to the proposed designation. The owner(s) shall be invited to comment in writing. The general public shall also be notified through the local newspaper.

(2) No sooner than thirty (30) days after sending its notice to the owners and publishing a legal notice in the newspaper, the Commission shall conduct a public hearing and review any written comments received. The hearing shall be open for public comment. At the close of the hearing, and if there is no objection by the property owner, the Commission shall forward a copy of the minutes of the hearing, along with its recommendation for designation to City Council.

(3) At the next regular City Council meeting occurring subsequent to the receipt of a recommendation from the Historic Preservation Commission to designate an individual landmark, Council shall vote by motion on the designation of the property(ies).

(4) If Council does not approve the nomination(s), and if there is no objection from the property owner, then the Commission may revise and/or resubmit the nomination(s) to Council with any additional supportive information. The property owner shall be notified as to the date that City Council will be acting on the renomination.

(c) Immediately after the approval of the individual landmark by City Council, the Clerk of Council shall notify all affected property owner(s) of the decision in writing, add the individual landmark designation to the list of same, and forward a copy of the information to the Mayor and all pertinent City commissions and personnel. The Clerk shall keep a copy of the list on file for public inspection.

(d) The Commission may recommend that Council remove from the landmarks list properties that no longer meet the criteria of this chapter.

#### **1488.08 PROCEDURES FOR DESIGNATION OF HISTORIC DISTRICTS.**

(a) When a proposal to create a historic district is received or initiated by the Commission, the Commission shall consider the proposal in terms of the criteria defined in Section 1488.06 and make a recommendation to City Council.

(b) For proposed historic districts, the following procedures shall be followed:

(1) All property owners within the proposed historic district shall be notified by personal service or certified mail that the property is being considered for designation within a historic district. The notice shall include the date, time, and place of a public hearing relative to the proposed designation. The owners shall be invited to comment in writing. The general public shall also be notified through the local newspaper.

(2) No sooner than thirty days after sending its notice to the owners and publishing a legal notice in the newspaper, the Commission shall conduct a public hearing and review any written comments received. The hearing shall be open for public comment. The Commission shall explain the effects of designation, why landmark status is being sought, and record the comments of persons in attendance. At the close of the hearing, and if there is no objection by fifty-one percent or more of the property owners, the Commission shall forward a copy of the minutes of the hearing, along with its recommendation for designation to City Council.

(3) At the next regular City Council meeting occurring subsequent to the receipt of a recommendation from the Historic Preservation Commission to designate a historic district, Council shall vote by motion on the designation of the district.

(4) If Council does not approve the nomination, and if owners pose no objections, then the Commission may revise and/or resubmit the nomination to Council with any additional supportive information. The property owners shall be notified as to the date that City Council will be acting on the designation of the historic district.

(c) Immediately after the approval of the historic district by City Council, the Clerk of Council shall notify all property owners in the district of the decision in writing, add the historic district designation to the list of same, and forward a copy of the information to the Mayor and all pertinent City commissions and personnel. The Clerk shall keep a copy of the list on file for public inspection.

#### **1488.09 PROCEDURES FOR REVIEW OF PROPOSED ALTERATIONS TO HISTORIC LANDMARKS AND PROPERTIES WITHIN HISTORIC DISTRICTS.**

(a) The Commission, assisted by City personnel, shall be available to applicants as a source of information and assistance before an application is made. Applicants are encouraged to make use of this service.

(b) No person shall make any exterior alteration to or demolish any historic structure or part thereof which is a designated City landmark or lies within a local historic district without first obtaining a Certificate of Appropriateness. A Certificate of Appropriateness must be obtained for new construction on vacant sites within historic districts.

(c) Application(s) for a Certificate of Appropriateness shall be filed at City Hall in such form as may be prescribed by the Commission and approved by the Mayor. The Mayor or his/her designee is responsible for ensuring that any construction to be undertaken is in accordance with the Certificate of Appropriateness.

(d) The Commission shall approve or reject an application for a Certificate of Appropriateness within forty-five days of the filing of a complete application. Said action shall be taken at a meeting in compliance with Codified Ordinance Section 1488.02(f). If the Commission fails to act within the time period, the application for a Certificate of Appropriateness shall be deemed approved.

(e) Each case will require careful consideration of all relevant factors, including earlier changes, existing conditions, and surrounding properties. Some flexibility is often necessary to accommodate the property owner. The Commission shall approve, or approve with conditions, the Certificate of Appropriateness if it finds that the proposal conforms to the Secretary of the Interior's Standards for Rehabilitation, or locally adopted design standards.

(f) In the case of the denial of a Certificate of Appropriateness, the Commission shall state the reasons for denial in writing and include findings of fact in support of the decision. Copies of the decision shall be mailed to the applicant. The Commission may suggest changes which can result in approval and offer to continue to meet with the owner to achieve a mutually satisfactory compromise.

The property owner may, within ten days of receipt of the decision of the Historic Preservation Commission, appeal to City Council by filing a written notice of appeal with the Commission and the Clerk of Council. City Council shall hear the appeal and render a decision within thirty days of the filing of the notice of appeal. City Council may affirm, reverse, or modify the decision of the Historic Preservation Commission. The property owner shall receive written notification of Council's decision.

#### **1488.99 PENALTY.**

Any person, firm, or corporation who violates any of the provisions of this chapter shall, upon conviction thereof in a court of competent jurisdiction, be fined not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00) for each violation. Each and every day that a violation continues shall constitute a separate offense.

The foregoing remedy is not exclusive and shall be in addition to any other remedy, including civil action(s) in a court of competent jurisdiction to enjoin any violations of this chapter.

### **APPENDIX A THE SECRETARY OF THE INTERIOR'S STANDARDS FOR REHABILITATION**

The following Standards are to be applied to specific rehabilitation projects in a reasonable manner, taking into consideration economic and technical feasibility:

- (1) A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
- (2) The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.

- (3) Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
- (4) Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
- (5) Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.
- (6) Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
- (7) Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
- (8) Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
- (9) New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
- (10) New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

**APPENDIX B**  
**THE NATIONAL REGISTER OF HISTORIC PLACES**  
**& THE OHIO HISTORIC INVENTORY DEFINED**

The National Register of Historic Places is the official list of properties recognized by the federal government as worthy of preservation for their local, state, or national significance in American history, architecture, archaeology, engineering, or culture.

The Ohio Historic Inventory is an accurate, continuing record of the architectural and historic properties of the state. The Ohio Historic Inventory form records basic information on historic properties in Ohio. The form succinctly and accurately describes a building, site, structure or object and its history. By including a photo and a map, each form summarizes both graphic and written information about a property.

Section 2: That all meetings and hearings concerning the adoption of this Ordinance have been in compliance with Codified Ordinance 220.01, Ohio Revised Code Section 121.22, and the Charter of the City of Shelby; and

Section 3: That this Ordinance shall be in full force and effect from and after its passage, approval by the Mayor, and the earliest period allowed by law

PASSED: February 17, 2015


Stm

Steven D. McLaughlin  
Vice President of Council

ATTEST: Jeffrey D. Fenner  
Jeffrey D. Fenner  
Clerk of Council

APPROVED: Steven L. Schag  
Steven L. Schag  
Mayor

Prepared by:

  
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