

The Village of Burton Historic District Ordinance

159.01 PURPOSE.

The purpose of this chapter is:

- (a) To establish procedures whereby certain areas, places, sites, buildings, structures and objects shall be allowed the measure of protection afforded by a thorough study of alternatives to incompatible alterations or demolition before such acts are performed, so that the following objectives are reached:
 - (1) To maintain and enhance the distinctive character of historic buildings and historic areas in Burton;
 - (2) To safeguard the architectural integrity of the Village's historical resources within designated districts;
 - (3) To safeguard the heritage of the Village by preserving areas, places, sites, buildings, structures, and objects which reflect elements of Burton's cultural, social, economic, political, and architectural heritage;
 - (4) To seek alternatives to demolition or incompatible alterations within designated areas and to listed properties before such acts are performed;
 - (5) To afford the widest possible scope of continuing vitality through private renewal and architectural creativity within appropriate controls and standards;
 - (6) To encourage development of vacant properties in accordance with the character of the designated districts and listed properties.
- (b) To contribute to the economic, recreational, cultural, and educational development of the Village of Burton by:
 - (1) Protecting and enhancing the Village's attractions to prospective tourists, visitors, and residents;
 - (2) Providing support and stimulus to business and industry;
 - (3) Strengthening the economy of the Village;
 - (4) Stabilizing and improving property values;
 - (5) Fostering civic pride in the beauty and notable accomplishments of the past;
 - (6) Facilitating the reinvestment in and the revitalization of certain older districts and neighborhoods;
 - (7) Promoting the use and preservation of historic sites and structures for the education and general welfare of the people of Burton;

- (8) Protecting the property rights of owners whose property lies within areas of historic architectural significance;
- (9) Enhancing the visual and aesthetic character, diversity, and interests of the Village.
- (10) Preserving Burton's architectural and historic significance in the national context.

159.02 DEFINITIONS.

The following definitions shall apply only to the provisions of this chapter:

- (a) "Alter" or "alteration" means any material change in the external architectural features of any property which lies within the Historic District or has been listed under the provisions of this chapter as Listed Property, not including demolition, removal or construction but including real property.
- (b) "Applicant" means any owner, owners, person, persons, association, partnership or corporation who files a Historic District Construction Permit in order to undertake any change on property subject to this chapter.
- (c) "Change" means any alteration, demolition, removal or construction involving any property subject to the provisions of this chapter, including signs.
- (d) "Contributing Building" means any building within the designated Historic District which has special historical, aesthetic or architectural value relative to other buildings in the Historic District.
- (e) "Historic District Construction Permit" means the document issued by the Board of Review signifying that the applicant has met the requirements of this chapter and is qualified for the incentives provided in this chapter.
- (f) "Historic District Design Review Guidelines" means the document attached hereto as Exhibit "B" which shall serve as a reference for Applicants and the Review Board to determine what is acceptable within the Historic District.
- (g) "Listed Property" means any property which has special character, historical aesthetic, or architectural value as part of the heritage, development or cultural characteristics of the Village, State, the United States and which has been designated as a Listed Property pursuant to the provision of this chapter.
- (h) "Ordinary maintenance" or "repair" means activities which do not require a Village zoning permit or a County building permit.
- (i) "Review Board" means the Historic District Architectural Review Board established under the provisions of this chapter.
- (j) "Structure" means the main and accessory buildings on a property in the Historic District.

159.03 HISTORIC DISTRICT BOUNDARIES.

The Burton Historic District boundaries are shown on the District Map and include all properties within such boundary. The Burton Historic District includes the National Register Historic District plus adjacent territory which contributes to the historic significance of the Village and adds a measure of protection to the National Register District. Such area is shown on Map Exhibit A, attached to Ordinance 1284-83, and made a part thereof.

159.04 CREATION OF REVIEW BOARD.

In order to execute the purpose declared in this chapter, there is hereby created a commission to be called the Review Board.

159.05 REVIEW BOARD ORGANIZATION.

- (a) The Review Board shall consist of five members and one member shall be a member of the Burton Village Council. The five members of the Review Board shall be appointed by the Mayor and approved by Council.
- (b) All members shall have demonstrated a special interest, experience, or knowledge in history, history of architecture, or related disciplines, as well as a commitment to historic preservation. At least two of the five members of the Review Board shall have preservation related professional backgrounds, such as architecture, architectural history, history, archaeology, planning, or related disciplines. Village Council may, on a case by case basis, deviate from this requirement in the event that suitable volunteers with the prescribed credentials are not available.
- (c) The term of a Review Board Member shall be three (3) years except that the initial appointment shall be one for one year, one for two years, one for three years and two for four years. Members may be reappointed to subsequent terms at the discretion of the Mayor and Council.
- (d) Vacancies which may occur on the Review Board shall be filled by appointment of a new member by the Mayor with the consent of Village Council for the duration of the unexpired term of office. Any vacancy on the Review Board shall be filled within sixty (60) days, unless extenuating circumstances necessitate a longer period.
- (e) The Mayor, with the consent of Council, shall have the power to remove any member from the Review Board for cause. A member of the Review Board may be removed by the Mayor with the consent of Village Council in the event the Member misses three (3) meetings of the Review Board in a calendar year.
- (f) The members of the Review Board shall elect from their membership a Chairperson. The Chair, or in that person's absence the Acting Chairperson, shall call the meeting to order, preside over the meeting, and may request the presence of persons directly involved in an application decision which is before the Review Board. A member of the Village's Council designated by the Mayor shall serve as secretary.

- (g) Three members of the Review Board shall constitute a quorum for the transaction of business. A majority vote of the members present shall be required for the taking of official action.
- (h) The Review Board shall be responsible for keeping the written minutes of its proceedings, for showing the vote of each member on every question before the Review Board, and for maintaining the record of the Review Board's examinations and other official actions. The written minutes of the Review Board's proceedings shall be available for public inspection.
- (i) The Review Board shall have the power to adopt, amend and repeal rules and regulations consistent with the law or the provisions of this chapter governing its procedures and transactions, and for the purpose of carrying into effect the standards and specifications of this chapter, subject to approval of Burton Village Council.
- (j) The Review Board shall hold public meetings at least four times per calendar year and may conduct such additional public meetings as are necessary to accomplish the purposes of this Chapter. All meetings of the Review Board shall be advertised in accordance with the Village's Codified Ordinances and all such meetings shall be open to the public.

159.06 DUTIES AND POWERS OF THE REVIEW BOARD.

- (a) It shall be the duty of the Review Board to review all plans for new construction or the reconstruction, construction, alteration, repair, moving, and demolition of existing structures in the Village of Burton Historic District, and it shall have the power to pass upon such plans before a Historic District Construction Permit for such activity can be granted through a Motion of the Review Board. In reviewing the plans, the Review Board shall give consideration to:
 - (1) The historical or architectural value and significance of the structure and its relationship to historic value of the surrounding area;
 - (2) The general compatibility of exterior design, arrangement, texture and materials proposed to be used; and
 - (3) Other relevant factors such as those delineated in Section 159.10 which are in conformance with the purpose of this chapter.
- (b) The Review Board shall pass only on exterior features of a structure and shall not consider interior arrangements, nor shall it disapprove applications except in regard to considerations as set forth in subsection (a) hereof.
- (c) It is the purpose of this chapter that in order to issue a Historic District Construction Permit, the Review Board shall require that new construction be compatible with the character of the Historic District. It is further the purpose of this chapter that the making of alterations and repairs to existing structures in the Village of Burton Historic District be made in the spirit of their architectural style. Finally, additions to structures may be made in styles other than the one in which the structure was built, providing that such

additions are architecturally and aesthetically compatible with the original structure and any later additions up to the date of adoption of this chapter. It is not the intent of this chapter to limit new construction, alteration, or repair to any one architectural style. Suggestions of appropriate design criteria are contained in the Village of Burton Historic District Design Review Guidelines.

- (d) The Review Board shall have the power to retain experts to aid in its deliberations subject to normal financial procedures.
- (e) The Review Board shall have the power to issue a Historic District Construction Permit if it approves of the plans submitted for its review. (See Section 159.13: Role of Zoning Inspector for the procedure that applies.)
- (f) The Review Board shall conduct or cause to be conducted or assist the conduction of a continuing survey of all areas, places, buildings, structures, works of art, or other objects of environmental, aesthetic, historic, or architectural interest in the Village which the Review Board, on the basis of information available and presented to it, has reasons to believe are or will be eligible for designation as a Listed Property or additional Historic District. The Review Board shall make recommendations to the Village Planning Commission and Village Council for designation of properties as a Listed Property or designation of areas as an addition to the Historic District. No property may be listed and no Historic District shall be established except upon the approval of Village Council after review and recommendation by the Planning Commission.
- (g) The Review Board may recommend to the Planning Commission and Council the acquisition by eminent domain, or otherwise, easements, or any other interest, in real property and the buildings thereon, or any part thereof, for the purpose of securing conformity of any real property and the buildings thereon, or any part thereof in the Village of Burton Historic District.
- (h) The Review Board shall prepare a report on an annual basis summarizing its activities, cases heard, decisions made, special projects undertaken, and the annual reports shall also include a list of the Members of the Review Board along with their qualifications. The annual report shall be kept on file in the Village's offices and available for public inspection.
- (i) The Review Board shall:
 - (1) Act in an advisory role to other officials and departments of the Village concerning protection of local cultural resources;
 - (2) Act as a liaison on behalf of the Village to individuals and organizations concerned with historic preservation;
 - (3) Work toward the continuing education of citizens and business owners within the Village's jurisdiction regarding historic preservation issues and concerns;

- (4) Undertake additional responsibilities upon mutual written agreement between the Village and the State of Ohio Historic Preservation Office;
 - (5) Conduct or encourage Review Board members to attend training/educational sessions at least one time per year or engage in in-depth consultation with the Ohio Historic Preservation Office concerning the work and functions of the Review Board and specific historic preservation issues. Barring extenuating circumstances, all Review Board members must attend a training/educational session at least one time per year.
- (j) In order to avoid an actual or perceived conflict of interest, Review Board members shall follow the following procedures:
- (1) Any Review Board member who has a financial interest, direct or indirect, in any agenda item shall notify the Review Board of that interest.
 - (2) The Review Board member shall refrain from voting on or participating in any of the Review Board's discussion or debate on the issue of concern.
 - (3) Any member of the Review Board who knowingly conceals such financial interest or violates the requirements of this section may be removed from the Review Board by the Village Council.

159.07 DESIGNATION CRITERIA OF HISTORIC DISTRICTS AND LISTED PROPERTIES.

In considering the designation of any area, place, building, structure, work of art, or similar object in the Village as a Historic District or Listed Property, the Review Board, Planning Commission and Village Council shall apply, in addition to other available information, the following criteria:

- (a) The character, interest or value of the area or property as part of the development, heritage or cultural characteristics of the Village, State or the United States.
- (b) The location as a site of a significant historic event.
- (c) The identification with a person or persons who significantly contributed to the culture and development of the Village.
- (d) The exemplification by the area of property of the cultural, economic, social, or historic heritage of the Village.
- (e) The embodiment of distinguishing characteristics of an architectural type of specimen.
- (f) Identification as the work of an architect or notable builder whose individual work has influenced the development of the Village.
- (g) The embodiment of elements of architectural design, detail, materials or craftsmanship which represent architecture of significant charm or grandeur.

- (h) A unique location or physical characteristic representing an established and familiar visual feature of a neighborhood of the Village.

159.08 PROCEDURE FOR LISTING PROPERTIES.

- (a) A map detailing the current boundaries of the Burton Historic District is attached hereto as Exhibit "A".
- (b) All properties now existing in the Burton Historic District as defined in Section 159.03 are listed properties subject to the requirements of this chapter.
- (c) The expansion of the Burton Historic District or the creation of additional or separate historic districts shall be by petition of the property owners and shall require that at least fifty percent (50%) of the owners of buildings in such expanded or additional historic district shall indicate in writing their desire to have their buildings included. After examination by the Review Board and appropriate documentation signifying the significance of a majority of buildings in the expanded or proposed additional area on the basis of criteria contained in Section 159.07, the expanded or proposed additional area shall be declared as included and subject to the requirements of this chapter upon favorable recommendation by the Planning Commission to Village Council and upon approval by Village Council after a public hearing by Village Council.

159.09 APPLICATION AND NOTICE.

- (a) Whenever a structure, as defined by this chapter, whether public or private, within the above-described District is proposed to be newly constructed or erected, and whenever an existing structure is proposed to be altered, reconstructed, enlarged, or remodeled, if such alteration, reconstruction, enlargement, or remodeling involves the exterior design, material, finish grade line, or orientation of the structure, an application for a Historic District Construction Permit shall be obtained from the Zoning Inspector for a fee of five dollars (\$5.00) per structure. The applicant shall also receive a copy of the Village of Burton Historic District Design Review Guidelines Ordinance as a reference to preserving the historic integrity of existing buildings and to designing new structures compatible with the historic character of the District.
- (b) Such application shall be accompanied by a line drawing indicating, at a minimum, the lot dimensions, the size, shape and dimensions of the structure, the location and orientation of the structure on the lot, and the actual or proposed building setback lines. In addition, the application shall be accompanied by a detailed narrative description of the proposed design or change of design, use of materials, finish grade line, landscaping and orientation of the structure. Except in residential zoning districts, applications for structures to be constructed or remodeled, which remodeling would increase or decrease the total gross building area by fifty percent (50%) or more, shall be accompanied by a colored elevation showing, at a minimum, the design, use of materials finish grade line, landscaping and orientation of buildings. In addition, the Review Board may require the submission of colored perspectives or architectural renderings.

- (c) Upon receipt of an application for a Historic District Construction Permit which is accompanied by the material required by the provisions of the foregoing paragraph, the application shall be placed on the agenda for consideration by the Review Board at its next meeting following not more than ten business days from the date the application is filed. The Review Board shall cause to be published in a newspaper of general circulation in the Village a public notice of the scheduled meeting date of the application together with a general description of the nature of the application. The applicant shall be notified by mail of the date of the meeting.

159.10 STANDARDS FOR REVIEW; HISTORIC DISTRICT CONSTRUCTION PERMIT.

- (a) The Board, in deciding whether to issue a Historic District Construction Permit, shall determine that the Application under consideration promotes, preserves, and enhances the distinctive historical character of the community and would not be so at variance with the existing structures within that portion of the District in which the structure is, or is proposed to be located, as to be detrimental to the interests of the District. In conducting its review, the Review Board shall examine all of the elements of the Application within the framework of the Historic District Design Review Guidelines including, but not necessarily limited to:
 - (1) Height, which shall include the requirements of Chapter 1139 of the Zoning Code or the requirements of the sections of the Zoning Code appropriate to the area of the Village in which the structure is or will be located.
 - (2) Building mass, which shall include the relationship of the building width to its height and depth, and its relationship to the viewer's and pedestrian's visual perspective.
 - (3) Window treatment, which shall include the size, shape and materials of the individual window units and the overall harmonious relationship of window openings.
 - (4) Exterior detail and relationships, which shall include all projecting and receding elements of the exterior, including, but not limited to, porches and overhangs, and the horizontal or vertical expression which is conveyed by these elements.
 - (5) Roof shape, which shall include type, form and materials.
 - (6) Materials: texture and color, which shall include a consideration of material compatibility among various elements of the structure.
 - (7) Compatibility of design and details, which shall include the appropriateness of the use of exterior design details.
 - (8) Landscape design and plant materials, which shall include lighting and the use of landscape details to accent architectural features or screen or soften undesirable views.

- (9) Pedestrian environment, which shall include the provisions of features which enhance pedestrian movement and environment and which relate to the pedestrian's visual perspective,
- (10) Signage: The existing articles of the Village Zoning Ordinance dealing with signage would apply to a Historic District with the following additional guidelines:
 - A. Proposed signs should be compatible with the historic, aesthetic, and architectural character of the building within reasonable limits of size and placement and compatible with the surrounding streetscape.
 - B. Sign colors should be compatible within the sign itself and should correlate with building colors.
 - C. Excellent signs already in place should be cited as guides for future sign-making petitioners.
- (b) In conducting its inquiry and review, the Review Board may request from the applicant such additional information, sketches, and data as it shall reasonably require. It may call upon experts and specialists for testimony and opinion regarding the matters under consideration. It may recommend to the applicant changes in the plans that it considers desirable, and may accept a voluntary amendment to the application to include or reflect such changes. The Review Board shall keep a record of its proceedings and shall append to the application copies of information, sketches and data needed to clearly describe any amendment to it.
- (c) When its review is concluded, the Review Board will determine, by a vote of its members, whether the Application for a Historic District Construction Permit shall be approved. If approved by a majority present, the Review Board shall return the application and appended material to the Zoning Inspector with the instruction that the Historic District Construction Permit be issued, provided all other requirements for a zoning permit and building permit, if applicable, are met. If not so approved, the Review Board shall cause the return of the application and appended material to the applicant with a notice that the Historic District Construction Permit shall not be issued because the application did not meet the criteria and standards set forth herein.

159.11 FEDERAL TAX CREDITS.

Once a Historic District Construction Permit has been granted for an existing structure, the property owner may proceed with the construction, reconstruction, alteration, renovation, or rehabilitation items included in the Application as approved. After the issuance of such Historic District Construction Permit, the owner may apply for any deduction or accelerated depreciation that may be allowed in accordance with applicable provisions of the Economic Recovery Act of 1981 and the Tax Reform Act of 1976. Federal law shall control any such determination.

159.12 OMITTED.

159.13 ROLE OF ZONING INSPECTOR.

- (a) The Zoning Inspector shall issue a Historic District Construction Permit for any new construction or existing structures that have been approved by the Review Board within seven days of receipt of such approval, providing all zoning permit requirements have been met. He may approve a Historic District Construction Permit conditionally approved by the Review Board as soon as the conditions specified in such conditional approval have been fulfilled. The Zoning Inspector shall refuse to issue a Historic District Construction Permit for any application disapproved by the Review Board, but may issue required zoning permits which meet all other requirements. Should the Review Board lack a quorum, a conditional permit will be issued subject to Design Review and another meeting will be scheduled within the twenty day time frame (see Section 159.14) for Historic District Construction Permit Review. The purpose of this procedure is to eliminate unreasonable delay.
- (b) The approval, disapproval, or review default of the Review Board shall become a permanent record in the project file to serve as documentation for approval of the incentives as outlined in Section 159.11.

159.14 APPEALS.

The Review Board shall decide all Applications through a meeting of the Review Board.

- (a) Any person, firm or corporation, or any officer, department, board, or agency of the Village who has been aggrieved by any decision of the Review Board involving an application for approval may appeal such decision to Council by filing notice of intent to appeal with the Fiscal Officer within ten days from the date of the decision, setting forth the facts of the case.
- (b) Council shall hold a public hearing on the appeal. The hearing shall be held no later than twenty days after an appeal has been filed. Council, by a vote of its members customary for conducting its business, shall decide the matter, and its decision shall be final.

159.15 DEMOLITION OR MOVING OF HISTORIC STRUCTURES.

- (a) The demolition or moving of Contributing Buildings within the Historic District or any non-contiguous Listed Property shall be discouraged. The Review Board may at its own discretion after due consideration issue a Historic District Construction Permit for the demolition or moving of such aforementioned structure. However, in order to grant such a certificate, the Review Board must be satisfied that the structure meets at least one of the following criteria:
 - (1) The Contributing Building has been deemed by appropriate authority to be a hazard to public health or safety, and repairs are deemed to be impossible as determined by the County Building Inspector or his designee;
 - (2) The Contributing Building is a deterrent to a major community improvement program which the applicant must demonstrate will be of substantial benefit to the

community. This improvement must be shown to have great potential for increasing surrounding property values and must be shown as a part of a formally adopted long-range plan or improvement effort;

- (3) Retention of the Contributing Building would require undue financial hardship. Such hardship must be proved by the applicant and must be demonstrated in terms of net loss in value of the structure in question; or
- (4) The retention of the Contributing Building would not be in the interest of the community as a whole as is determined by the Review Board in relationship to formally adopted overall plans for the Village of Burton Historic District and other such districts and Listed Properties as shall be designated.
- (5) In cases where approval for demolition is granted for reasons other than public health and safety, such Certificate shall not become effective until two months after the date of such issuance in order to provide a period of time within which it may be possible to relieve a hardship or to cause the property to be transferred to another owner who will retain the structure. This in no way implies approval by the County Building Department, whose approval must also be secured in addition to the Historic District Construction Permit.

159.16 SEVERABILITY.

The provisions of this chapter shall be deemed to be severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of the court shall not impair any of the remaining provisions.

159.17 ORDINARY MAINTENANCE.

Nothing in this chapter shall be construed to prevent ordinary maintenance or repair as defined in Section 159.02 of any structure within the Village of Burton Historic District or subsequent Listed Properties, nor shall anything in this chapter be construed to prevent any environmental change, including the construction, reconstruction, alteration or demolition of any feature which in the view of the proper authority acting lawfully for the public safety because of an unsafe or dangerous condition.

159.18 VARIANCES.

Due to the peculiar conditions of design and construction in historic neighborhoods where structures were sometimes built close to lot lines, it is in the public interest to retain a neighborhood's historic appearance by making variances to normal yard requirements where such a variance does not adversely interfere with the public health and safety. Where it is deemed that such a variance is warranted and will not adversely affect neighboring properties, the Review Board shall recommend appropriate variances to the Zoning Board of Appeals for their consideration and action.

159.19 SURVEY AND INVENTORY OF HISTORIC PROPERTIES.

The Review Board shall maintain a system for the survey and inventory of historic properties within the Village as follows:

- (a) The Review Board shall prepare a detailed inventory of all buildings located within the Historic District and any other listed property within the Village.
- (b) The inventory shall be:
 - (1) Maintained securely and be accessible to the public, except that access to any archeological site location may be restricted;
 - (2) Recorded on Ohio Historic Inventory, Ohio Archeological Inventory, and/or other forms compatible with the Ohio Historic Preservation off its computerized inventory and compatible with the comprehensive preservation planning process;
 - (3) Available through duplicates (with contact) to the Ohio Historic Preservation office. Digital images in lieu of contact prints are also acceptable; and
 - (4) The inventory shall be updated periodically to reflect changes, alterations and demolitions within the Historic District or to any listed property.

159.20 RULES OF PROCEDURE.

The Review Board may adopt rules of procedure that are consistent with this Ordinance. Any such rules of procedure shall be adopted in an open meeting and shall be available for public inspection.

159.21 PENALTIES AND REMEDIES.

- (a) Anyone that causes or permits an Alteration or Change to a Listed Property or a property within the Historic District in violation of this Chapter shall be guilty of a misdemeanor of the first degree, punishable by a fine of not more than one thousand dollars (\$1,000) or imprisonment for not more than one hundred eighty (180) days, or both.
- (b) Anyone who violates subsection (a) of this subpart shall, in addition to the penalties set forth above, be required to restore the property to its previous condition or to a condition approved by the Review Board.
- (c) The Solicitor of the Village is hereby authorized, upon request by the Review Board, to seek injunctive orders and to take such other action to prevent an unlawful Alteration or Change affecting a Historic District property or Listed Property.