
CHAPTER 54**HISTORICAL PRESERVATION****ARTICLE 1. PREAMBLE, TITLE AND PURPOSE**

5.391. Preamble. This Chapter is enacted under Act 213, Public Acts of 1957, Act 33, Public Act of 1968, Act 169, Public Act of 1970 as amended, of the State of Michigan, to create a municipal historical commission and prescribe its functions; provide for the establishment of appropriate historic districts; provide for the acquisition of land and structures for historic purposes; provide for preservation of historic sites and structures; assure public protection of privately-owned historic sites and for the maintenance of publicly-owned historic sites and structures by the City of Frankenmuth, Saginaw County, Michigan.

5.392. Title. This Chapter shall be known and may be designated as the City of Frankenmuth Historic Preservation Ordinance.

5.393. Purpose. In the interest of safeguarding and enhancing the ethnic heritage of the Franconian-Bavarian people of the City of Frankenmuth already well established architecturally, and to further conserve for the appreciation of posterity evidence of the mid-19th Century pioneer village founders and early immigrants of this community, it is the purpose of this Chapter to circumscribe and regulate:

- (1) Within certain business and commercial use areas a specific historic district which architecturally expresses and reflects the Franconian and/or Bavarian origins of the inhabitants of this community.
- (2) Elsewhere within the community, historic districts which contain evidences of the rural or village life in our mid-American forest clearing from 1845 into the 20th century.

Said objectives being created to reflect the various elements of the cultural, social, economic, political and architectural history of the City of Frankenmuth; to stabilize and improve property values; to foster civic beauty; to strengthen the local economy, and to promote the use of such districts for the education, pleasure and welfare of the citizens of the City and of visitors thereto; and in furtherance thereof, to regulate and control the construction, alteration, repair, moving and demolition of structures within said districts.

5.394. Definitions. For the purpose of this Chapter, the following definitions shall apply:

- (1) Historic Preservation District. The term "Historic Preservation District" shall mean an area or group of areas, not necessarily having contiguous boundaries, created by the City for the purposes of this Chapter. This shall include areas designated for continued adherence to conformity with the Franconian and Bavarian architectural style characteristic of the German villages from which the early Frankenmuth settlers emigrated, in addition to areas containing sites or structures which may either be of particular historical or cultural interest to the city, county, state or nation or which accurately exemplify or legitimately present the cultural, political, spiritual, economic, or social history of Frankenmuth and where evidenced by the Indian people whose prior habitation of the area forms a part of such history.
- (2) Commission. The term "Commission" shall refer to the Historic Preservation District Commission, hereinafter created, unless otherwise specified.

ARTICLE 2. HISTORIC PRESERVATION DISTRICT: LEGAL BOUNDARIES

5.395. District Boundaries. The boundaries of the Historic Preservation District, which may encompass one (1) or more other zoning uses, shall conform with lot lines, the centerlines of streets or alleys, or such lines extended.

The following described area shall constitute the Historic Preservation District of the City of Frankenmuth, Michigan:

- (1) All properties with frontage on Main Street, between Jefferson Street and Genesee Street.
- (2) All properties with frontage on Franklin Street between West Tuscola Road and Genesee Street; and also 135 W. Genesee and 136 W. School.
- (3) All properties with frontage on Hubinger Street between East Tuscola Road and Genesee Street; and also 135 E. Genesee.
- (4) All properties with frontage on Tuscola Road between and including 216 and 219 West Tuscola Road and Hubinger Street.

The above described Historic Preservation District shall be graphically designated upon a Historic Preservation District Map. Said map, together with all notations and all other information shown therein, shall be incorporated as a part of this Chapter by reference.

(Ordinance No. 1984-1, 01-03-1984)

ARTICLE 3. HISTORIC DISTRICT COMMISSION

5.396. Creation. To effectuate the purposes of this Chapter, there is hereby created a commission to be called the Historic Preservation District Commission, which shall consist of five (5) members, appointed by the Mayor and subject to the approval of the City Council. Commissioners shall be appointed for three (3) year terms except that the initial appointment shall be as follows: Two (2) commissioners for three (3) year terms; two (2) commissioners for two (2) year terms; one (1) commissioner for one (1) year term. Members shall be eligible for reappointment. Interim vacancies shall be filled, by appointment of the Mayor, subject to confirmation of the legislative body, for completion of the unexpired term.

5.397. Membership. The Commission shall consist of five (5) members, whose residence is located in the City of Frankenmuth. Two (2) of said members shall be appointed from a list of citizens submitted by the Frankenmuth Historical Association; one (1) resident architect duly registered in the State of Michigan; one (1) member of the City Planning Commission; one (1) member of the City Council. In the event that any of said positions be incapable of filling from the aforementioned sources, the appointments to such vacancy may be filled by selection of citizens at large.

The Commission shall elect its own Chairman, Vice-Chairman, and Secretary.

5.398. Operating Rules of Commission.

- (1) The Chairman shall preside over the Commission and have the right to vote. The Vice-Chairman shall perform the duties of Chairman in his absence. The Secretary shall keep an accurate record of the proceedings of

the Commission and shall forward a copy of the minutes of each Commission meeting to the City Clerk within ten (10) days after such meeting.

(2) The Commission shall meet at least semi-annually, and/or at the call of the Chairman or Secretary whenever matters are referred to it by the City Building Inspector.

(3) At least three (3) members of the Commission shall constitute a quorum for the transaction of its business. The Commission shall adopt rules for the transaction of its business which shall provide for the time and place of holding meetings. All meetings of the Commission shall be open to the public, and any person or his duly constituted representative shall be entitled to appear and be heard on any matter before the Commission before it reaches its decision.

(4) The Commission shall keep a record, which shall be open to public view, of its resolutions, proceedings and actions. The concurring affirmative vote of three (3) members shall constitute approval of plans before it for review, or for the adoption of any resolution, motion, or other action of the Commission. The Commission shall submit an annual report of its activities to the City Council.

ARTICLE 4. ADMINISTRATION AND ENFORCEMENT

5.399. Authority of Commission. It shall be the duty of this Commission to review all plans, the construction, alteration, moving or demolition of structures in a Historic Preservation District.

5.400. Plan Review. In reviewing the plans, the Commission shall give consideration to:

- (1) The historical or architectural value and significance of the structure or site and its relationship to the historic value of the surrounding area;
- (2) The relationship of the exterior architectural features of such structure to the rest of the structure and to the surrounding area;
- (3) The general compatibility of exterior design, arrangement, texture, and materials proposed to be used;
- (4) Any other factor, including aesthetic, which it deems to be pertinent.

The Commission shall pass only on exterior features of a structure and shall not consider interior arrangement.

5.401. Incentive Program. The Commission may recommend to the City Council certain incentive programs to encourage preservation of landmark buildings in the City.

5.402. Grants and Loans. The Commission may accept in the name of the City of Frankenmuth, any grant, loan or aid of any character from Federal, State or private sources, to be expended for the purposes contemplated by this Chapter, including, but not limited to the making of surveys of historical structures and/or sites, and the acquisition, restoration and possible resale of properties of historical or architectural significance. Such funds shall be administered in accordance with the Charter of the City of Frankenmuth, but an accounting shall be made of them and a copy of such accounting given to the Commission at least quarterly.

5.403. Resale of Property. The resale of properties under the jurisdiction of the Commission shall not be made without the report and recommendation of the Commission, and shall be done with the stipulation that the structure

or site must remain a Historic Preservation District and be subject to the regulations set forth in this Article, unless removed from the category of "Historic Preservation District" upon recommendation of the Commission. Sums received from the resale of such properties may, with the approval of the City Council, be budgeted for the acquisition and restoration of additional historic properties.

5.404. Budget. There may be appropriated in the annual budget of the City of Frankenmuth a sum of money which may be expended and accounted for in accordance with the Frankenmuth City Charter and the Uniform Accounting Act of the State of Michigan.

ARTICLE 5. APPLICATION AND REVIEW PROCEDURES

5.411. Permits. Application for a building permit to construct, alter, move or demolish any structure or site in a Historic Preservation District shall be made to the Building Inspector on forms provided by his office. No building and/or zoning permit applicable to parcels or structures within a Historic Preservation District shall be granted by the Building Inspector or City Planning Commission, as the case may be, until the applicant has first received favorable action of the Commission on the application seeking the change. The application shall contain the following information:

- (1) Name of applicant;
- (2) Address of property affected;
- (3) Description of proposed construction, alteration, etc;
- (4) Indication of existing and proposed structural materials;
- (5) Drawings showing general floor plan and elevations of existing and proposed exterior treatments. Elevation drawings shall be submitted for those exterior facades proposed to be changed and located on the front and/or sides of the structure;
- (6) Any other information, as in the opinion of the Commission is required in order to enable proper review of the application.

5.412. Filing Application. Upon the filing of such application, the Building Inspector shall immediately notify the Commission of the receipt of such application and shall transmit it, together with accompanying plans and other information, to the Commission.

5.413. Review.

- (1) The Commission shall meet within fifteen (15) days after notification by the Building Inspector of the filing, unless otherwise mutually agreed upon by the applicant and the Commission, and shall review the plans according to the duties and powers specified herein. In reviewing the plans, the Commission may confer with the applicant for the building permit, and with the Building Inspector, and with the City Planning Commission.
- (2) The Commission shall approve or disapprove such plans and, if approved, shall issue a Certificate of Approval, which is to be signed by the Chairman or Vice-Chairman, attached to the application for a building permit and immediately transmitted to the Building Inspector. The Chairman shall also stamp all plans submitted to the Commission signifying its approval or disapproval.

(3) If the Commission disapproves such plans, it shall state its reasons for doing so and shall transmit a record of such action and reasons therefor in writing to the Building Inspector and to the applicant. The Commission shall advise what it feels is proper if it disapproves of the plans submitted. The applicant, if he so desires, may make modifications to his plans and shall have the right to resubmit his application at any time after so doing.

If the requested permit is denied by the Commission, the Building Inspector shall disapprove the application.

No work shall begin until the Certificate is filed, but in the case of rejection the Certificate is binding on the Building Inspector and no building and/no zoning permit shall be issued in such case.

(4) The failure of the Commission to approve, conditionally approve, or disapprove of such plans within forty-five (45) days from the date of application for the building permit, unless otherwise mutually agreed upon by the applicant and the Commission, shall be deemed to constitute approval, and the Building Inspector shall proceed to process the application without regard to a Certificate of Approval from the Commission.

(5) After the Certificate of Approval has been issued and the building permit granted to the applicant, the Building Inspector or his representative shall inspect the construction or alteration approved by such Certificate, in accordance with the procedures established by the City of Frankenmuth.

(6) If the Commission denies a request for a demolition permit, it shall have the privilege of publicizing the imminent destruction of this structure, and may make an effort to find a private or corporate purchaser interested in preserving the property. Failing to find such a purchaser, the Commission may then recommend that the City of Frankenmuth purchase the property. Conclusive action must be taken within sixty (60) days of the date of the request.

(7) In cases where approval of demolition is granted for reasons other than public health or safety, such Certificate of Approval shall not become effective until sixty (60) days after the date of issuance, in order to provide a period of time within which it may be possible to relieve a hardship or transfer the property to another owner who will retain the structure. At the discretion of the Commission, this waiting period may be waived.

(8) If the Commission grants a permit for demolition, it may notify the Frankenmuth Historical Commission so that body may consult with the owner about obtaining anything of historical significance from the property.

ARTICLE 6. DEMOLISHING OR MOVING HISTORIC STRUCTURES

5.414. Demolition. The demolition or moving of structures designated as Historic Preservation Districts shall be discouraged. The Commission shall not issue a Certificate of Approval for demolition except when deemed a hazard to public health or safety by a responsible public agency, but may issue such a Certificate for moving said structure.

The Commission may issue a Certificate of Approval for the repair, alteration, moving or demolition of any structure. An application for repair or alteration affecting the exterior appearance of a structure or for the moving or demolition of a structure shall be approved by the Commission if any of the following conditions prevail and if, in the opinion of the Commission, the proposed changes will materially improve or correct these conditions:

- (1) The structure is a deterrent to a major improvement program which will be of substantial benefit to the community.
- (2) Retention of the structure would cause undue financial hardship to the owner.
- (3) Retention of the structure would not be in the interest of the majority of the community.

ARTICLE 7. EXCEPTIONS AND APPEALS

5.415. Exceptions. Nothing in this Chapter shall be construed to prevent ordinary maintenance, repair or sale of any structure within a Historic Preservation District; nor shall anything in this Chapter be construed to prevent the construction, alteration, repair, moving or demolition of any structure under a permit issued by the Building Inspector prior to the passage of this Chapter. Nor shall anything in this Chapter be construed to alter, amend or delete other provisions of this Code or the Frankenmuth City Charter pertaining to the administration, control or ownership of property owned by the City of Frankenmuth.

5.416. Appeals. Any person or persons jointly or severally aggrieved by a decision of the Commission may, within thirty (30) days after the Building Inspector has disapproved an application for a permit upon recommendation of the Commission, appeal to the City Council by written petition, and the City Council shall hear all pertinent evidence and shall affirm said decision, unless it finds the basis of such decision to be unwarranted by the evidence or insufficient in law, or shall take such other action as justice may require.

5.417. Prohibited Uses. In addition to those uses prohibited by other sections of the Zoning Ordinance, within the Historic District, the following uses are specifically excluded:

- A. All adult bookstores, adult movie theaters, and any business involved in the sale of pornography or pornographic material as described in and prohibited by section 9.7(16) of the City Code shall be prohibited from doing business within the Historic District of the City of Frankenmuth.
- B. Drive-in/fast food restaurants as defined in section 5.4(2) of the City Code shall be prohibited from doing business within the Historic District of the City of Frankenmuth.

(Ordinance No. 1983-4, 06-07-1983; Ordinance No. 1990-05, Sec. 1, 05-01-1990)

ARTICLE 8. VIOLATIONS; MUNICIPAL CIVIL INFRACTIONS

5.420. Violation; Municipal Civil Infraction. A person who violates any provision of this Chapter is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$50.00, nor more than \$500.00, plus costs and other sanctions, for each violation. Repeat offenses shall be subject to increased fines as provided by Section 1.12(3)(b) of this Code. The Zoning Administrator is hereby designated as the authorized City official to issue municipal civil infraction citations (directing alleged violators to appear in court) or municipal civil infraction violation notices (directing alleged violators to appear at the City of Frankenmuth Municipal Ordinance Violations Bureau) for violations under this Chapter as provided by this Code.

(Ordinance No. 1983-4, 06-07-1983; Ordinance No. 1990-05, Sec. 1, 05-01-1990; Ordinance No. 2002-05, 08-07-2002)