

CHAPTER 150: HISTORIC PRESERVATION

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§ 150.01 PURPOSE AND DEFINITIONS.

(A) In order to promote the educational, cultural and general welfare of the citizens of Knightstown and to insure the harmonious and orderly growth and development of the municipality; to maintain established residential neighborhoods to avoid having their distinctiveness destroyed; to enhance property values and attract new residents; to ensure the viability of the traditional downtown area and to enhance tourism within the town; it is deemed essential by the town that qualities relating to its history and harmonious outward appearance of its structures be preserved. This purpose is advanced through the restoration and preservation of historic areas and buildings, the construction of compatible new buildings where appropriate, and the maintenance and insurance of compatibility in regard to style, form, proportion, texture and material between historic buildings and those of contemporary design. It is the intention of the town through this chapter to preserve and protect historic and architecturally worthy buildings, structures, sites, monuments, streetscapes and neighborhoods which impart a distinctive aesthetic quality to the town and serve as visible reminders of historic heritage.

(B) For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words in the present tense include the future tense. The singular number includes the plural and 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 meanings 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.

CLASSIFICATIONS.

(a) **OUTSTANDING.** The "O" classification means that the property has sufficient historic architectural significance that is listed or is eligible for individual listing, in the National Register of Historic Places. Outstanding resources can be of local, state or national importance.

(b) **NOTABLE.** A classification of "N" means that the property does not merit the outstanding rating, but it is still above average in its importance. A notable structures may be eligible for the National Register.

(c) **CONTRIBUTING.** A classification of "C" means the property is at least 40 years old, but does not meet the criteria of an "O" or an "N" classification. The resources are important to the density or continuity of the area's historic fabric. Contributing structures can be listed on the National Register only as part of an historic district.

(d) **NON-CONTRIBUTING.** Property classified as "NC" is not included in an inventory unless it is located within the boundaries of a historic district. The properties may be less than 50 years old or they may be older structures that have been altered in such a way that they have lost their historic character or they may be otherwise incompatible with their historic surroundings. The properties are not eligible for listing on the National Register.

DEMOLITIONS. The complete or substantial removal of any building, structure or site located in a 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 chapter.

INTERESTED PARTY. One of the following:

- (a) The Town Council;
- (b) The Plan Commission;

(c) A neighborhood association, whether incorporated or unincorporated, a majority of whose members are residents of a historic district designated by an ordinance adopted under this chapter;

(d) An owner or occupant of property located in a historic district establishes by an ordinance adopted under this chapter;

(e) Historic Landmarks Foundation of Indiana, Inc., or any of its successors.

(f) The state historic preservation officer designated under I.C. 14-21-1-19.

PRESERVATION GUIDELINES. Criteria, locally developed, which identify 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.

PRIMARY AREA. The principal area of historic and/or architectural significance within a historic district as delineated on the map establishing the boundaries of the historic district.

ROUTINE MAINTENANCE. Work for which no certificate of appropriateness is required.

SECONDARY AREA. An area in an historic district delineated on the map establishing the boundaries of the 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 is to assure its compatibility and harmony with an adjacent, primary area.

STREETSCAPE. Appearance from a public way, the distinguishing characteristics of which are created by the width of the street and sidewalks, their paving material and color, the design of the street furniture (such as, street lights, trash receptacles, benches and the like). Use of plant materials such as trees and shrubs, and the setback, mass and proportion of those buildings which enclose the street.

TOWN. The Town of Knightstown, Indiana.

VISUAL COMPATIBILITY. Those elements of design that meet the guidelines set out in § 150.08.

(Prior Code, Ch. 18.02, § I) (Ord. 6-1998, passed 9-16-1998)

§ 150.02 COMMISSION ESTABLISHMENT AND ORGANIZATION.

(A) There is hereby established the Historic Preservation Commission of the town, hereinafter referred to as the Commission.

(B) The Commission shall consist of not less than 3, nor more than 9, voting members. The voting members shall be appointed by the Town Council and shall be residents of the town who are interested in the preservation and development of historic areas. The members of the Commission should include professionals in the disciplines of architectural history, planning and other disciplines related to historic preservation, to the extent that those professionals are available in the community. Non-voting, advisory member(s) may be appointed to the Commission of by the Town Council. Commission member(s) shall serve without compensation, except for reasonable expenses incurred in the performance of their duties.

(C) Voting members shall serve for a term of 3 years. The term for non-voting, advisory members shall be 3 years. A vacancy shall be filled within 90 days for the duration of the term.

(D) A town administrator designated by the Town Council shall serve as the ex officio administrator of the Commission. The administrator shall provide staff assistance to the Commission, act as the Commission's secretary and issue certificates of appropriateness as directed by the Commission.

(E) The Commission shall elect from its membership a Chairperson, Vice-Chairperson and Treasurer who shall serve for 1 year and who may be reelected.

(F) The Commission shall adopt rules consistent with this title for the transaction of its business. The rules must include the time and place of regular meetings and a procedure for the calling of special meetings.

(G) Commissions meetings must be open to the public in accordance with Indiana's Open Door Law and a public record shall be kept of the Commission's resolutions, proceedings and actions. The Commission shall hold regular meetings, at least monthly, except when it has no business pending. Special meetings may be called in a manner determined by the Commission and its rules.
(Prior Code, Ch. 18.02, § II) (Ord. 6-1998, passed 9-16-1998)

§ 150.03 POWERS AND DUTIES OF COMMISSION.

(A) The Commission shall be concerned with those elements of development, redevelopment, rehabilitation and preservation that affect visual quality in an historic district, which include, but are not limited to view sheds, landscapes and streetscapes of historic importance. The Commission may not consider details of design, interior arrangements or building features, of those details, arrangements or features are not subject to public view and may not make any requirement except for the purpose of preventing development, alteration or demolition in the historic district obviously incongruous with the historic district.

(B) The Commission shall conduct surveys and establish historic districts in accordance with the provision of § 150.04.

(C) The Commission may adopt preservation guidelines for architectural review. If adopted, preservation guidelines shall be published and made readily accessible to the general public.

(D) The Commission has the authority to receive funds in order to promote its stated purpose.

(E) The Commission shall promote public interest in historic preservation by initiating and carrying on a public relations and community education program.

(F) The Commission, through this chapter, may:

(1) Acquire by purchase, gift, grant bequest, devise or lease any real or personal property, including easements, that is appropriate for carrying out the purposes of the Commission;

(2) Hold title to real and personal property; and

(3) Sell, lease, rent or otherwise dispose of real and personal property at a public or private sale on the terms and conditions that the Commission considers best.

(G) The Commission shall establish procedures that the Commission must follow in acquiring and disposing of property.

(Prior Code, Ch. 18.02, § III) (Ord. 6-1998, passed 9-16-1998)

§ 150.04 HISTORIC DISTRICTS, CONSERVATION DISTRICTS AND GUIDELINES.

(A) All recommendations for the establishment of a historic district shall be in the form of a written report and must be based on the criteria outlined in this section. A recommendation for establishing a historic district may be initiated from either of the following 2 sources.

(1) Based on its surveys, the Commission may draw and submit historic district maps for Town Council approval.

(2) Owners or property in fee simple wishing to establish a historic district which includes their property may petition the Commission to consider drawing and submitting a map or maps of the property to the Town Council for its approval. The Commission may establish in its rules criteria to be met before it considers a petition.

(B) The Commission may recommend and the Town Council may provide that the establishment of an historic district shall occur in 2 phases. During the first phase, which continues for a period of 3 years from the date the ordinance is adopted, a certificate of appropriateness is required for the following activities: the demolition of any building; the moving of any building; and any new construction of a principal building or accessory building or structure subject from a public view.

(1) At the expiration of the initial 3-year period, the first phase of a conservation district continues and the second phase does not become effective if a majority of the property owners in the district object to the Commissions, in writing, to the requirement that certificates of appropriateness be issued for the following activities:

(a) A conspicuous change in the exterior appearance of non-historic buildings by additions, construction, alteration or maintenance involving exterior color changes;

(b) A change in walls and fences or construction of walls and fences, if along public ways;
and

(c) A conspicuous change in the exterior appearance of non-historic buildings subject to view from a public way by addition, reconstruction, alteration or maintenance involving exterior color change.

(2) The objections of a majority of the property owners must be received by the Commission not earlier than 180 days or later than 6 days before the third anniversary of the adoption of the ordinance.

(C) Commission preparation of historic district maps: in order to establish a historic district, the Commission shall first prepare a map describing the district in accordance with the following.

(1) The map shall be based on a survey conducted by the Commission which identifies historic buildings, structures and sites located within the town.

(2) A district may be limited to the boundaries of a property containing a single building, structure or site.

(D) (1) The Commission shall classify and designate on the map all buildings, structures and sites within each historic district described on the map. Buildings, structures and sites shall be classified as historic or non-historic. Historic buildings, structures and sites must possess identified historic or architectural merit of a degree warranting their preservation.

(2) The Commission shall further classify and designate all buildings and structures within a proposed historic district as follows:

(a) Outstanding;

(b) Notable; or

(c) Contributing.

(3) Non-historic buildings, structures and sites are those not classified on the map as historic. In lieu of other classifications, the Commission may devise its own system of further classification of historic buildings, structures and sites.

(E) Town Council approval of maps of historic districts: before a historic district is established and the building classification take effect, the map setting forth the district's boundaries and building classifications must be submitted to and approved in an ordinance by the Town Council.

(F) Recording the fact of designation: the map establishing boundaries of a historic district may be recorded in the office of the County Recorder.

(Prior Code, Ch. 18.02, § IV) (Ord. 6-1998, passed 9-16-1998)

§ 150.05 INTERIM PROTECTION.

(A) When submitting a map to the Town Council under § 150.04, the Commission may declare 1 or more buildings or structures that are classified and designated as historic on the map to be under interim protection.

(B) Not more than 2 working days after declaring a building, structure or site to be under interim protection under this section, the Commission shall, by personal delivery or first class mail, provide the owner or occupant of the building, structure or site with a written notice of the declaration. The written notice must:

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

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

(3) Indicate that the interim protection is temporary.

(C) A building or structure put under interim protection under division (A) above remains under interim protection until the map is:

(1) Submitted to; and

(2) Approved in an ordinance or rejected by the Town Council.

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

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

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

(E) The Commission may approve a certificate of appropriateness at any time during the period of interim protection, provided the proposed change meets the criteria for considering effect of actions on historic buildings in § 150.06(D) and any proposed preservation guidelines prepared for the building, structure or site, but the certificate of appropriateness shall have no effect, and no action may be taken pursuant thereto, unless the map including the building, structure or site is approved by the Town Council.

(Prior Code, Ch. 18.02, § V) (Ord. 6-1998, passed 9-16-1998)

§ 150.06 CERTIFICATES OF APPROPRIATENESS.

(A) A certificate of appropriateness must be issued by the Commission before a permit is issued for, or work is begun on, any of the following.

(1) Addition;

(2) Reconstruction; or

(3) Alteration:

(a) Within all areas of a historic district:

1. The demolition of any building or structure;

2. The moving of any building or structure;

3. A conspicuous change in the exterior appearance of any historic building or any part of or appurtenance to such a building, including walls, fences, light fixtures, steps, paving and signs by additions, reconstruction, alteration or maintenance involving exterior color change if cited by individual ordinance; or

4. Any new construction of a principal building or accessory building or structure subject to view from a public way.

(b) Within a primary area of a historic district:

1. A change in walls and fences or the construction of walls and fences along public ways;

2. A conspicuous change in the exterior appearance on non-historic buildings subject to view from a public way by additions, reconstructions, alteration and/or maintenance involving exterior color change; and

3. Within a conservation district:

a. The moving of any building;

b. The demolition of any building; or

c. Any new construction of a principal building or accessory building of structure subject to view from a public way.

(B) An application for a certificate of appropriateness shall be made in the office of the Commission or its designee on forms provided by that office. All applications shall be subject to the rules and requirements established by the Commission. Rules may include, but are not limited to filing deadlines and application requirements such as sketched, drawings, photographs, descriptions or other information which the Commission requires to make a decision.

(C) The Commission may approve or deny certificates of appropriateness for any actions covered by this chapter. If an application for a certificate of appropriateness is approved by the Commission or is not acted on by the Commission within 30 days after it is filed, a certificate of appropriateness shall be issued. The Commission may grant an extension of the 30-day limit if the applicant agrees to it. The Commission 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 buildings or demolition permit shall be issued unless a copy of the certificate of appropriateness is provided by the applicant with the application.

(D) The Commission, in considering the appropriateness of any reconstruction, alteration, maintenance or moving of a historic building, structure, site or any part of or appurtenance to such shall require that the work be done in a manner that will preserve the historical and architectural character of the building, structure or appurtenance. In considering historic and architectural character, the Commission shall consider, among other things the following:

(1) Purposes of this chapter;

(2) Historical and architectural value and significance of the building, structure, site or appurtenance;

(3) Compatibility and significance of additions, alterations, details, material or other non-original elements which may be of a different style and construction date than the original;

(4) The texture, material, color, style and detailing of the building, structure, site or appurtenance;

(5) The continued preservation and protection of original or otherwise significant structure, material and ornamentation;

(6) The relationship of buildings, structures, appurtenances or architectural features similar to one with the same historic district, including for primary areas, visual compatibility, as defined in § 150.08; and

(7) The position of the building or structure in relation to the street, public right-of-way and to other buildings and structures.

(Prior Code, Ch. 18.02, § VI) (Ord. 6-1998, passed 9-16-1998)

§ 150.07 STAFF APPROVALS.

(A) The Commission may authorize the staff of the Commission, on behalf of the Commission, to grant or deny an application for a certificate of appropriateness.

(B) The Commission shall specify by rule the types of applications for certificates of appropriateness that the staff of the Commission is authorized to grant or deny. The staff may not be authorized to grant or deny an application for a certificate of appropriateness for the following:

(1) The demolition of a building, structure or site;

(2) The moving of a building or structure;

(3) The construction of an addition to a building or structure; and

(4) The construction of a new building or structure

(Prior Code, Ch. 18.02, § VII) (Ord. 6-1998, passed 9-16-1998)

§ 150.08 VISUAL COMPATIBILITY.

(A) To preserve and encourage the integrity of historic buildings, structures, sites, monuments, streetscapes 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 appurtenance within the primary area must be generally of a design, form, proportion, mass, 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.

(B) 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 on color, must be visually compatible with buildings and places for which they are visually related generally in terms of the following visual compatibility factors.

- (1) The height of proposed buildings must be visually compatible with adjacent buildings.
 - (2) The relationship of the width of a building to the height of the front elevation must be visually compatible with buildings, squares and places to which it is visually related.
 - (3) The relationship of the width of the windows to the height of the windows in a building must be visually compatible with buildings, squares and places to which it is visually related.
 - (4) 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.
 - (5) 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.
 - (6) The relationship of entrances and porch projections of a building to sidewalks must be visually compatible with buildings, squares and places to which it is visually related.
 - (7) 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.
 - (8) The roof shape of a building must be visually compatible with buildings, squares and places to which it is visually related.
 - (9) 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 and places to which it is visually related.
 - (10) 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.
 - (11) A building must be visually compatible with buildings, square and places to which it is visually related in its directional character, including vertical character, horizontal character or non-directional character.
- (Prior Code, Ch. 18.02, § VIII) (Ord. 6-1998, passed 9-16-1998)

§ 150.09 PRESERVATION OF CHARACTER.

(A) An 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.

(B) An historic building may be relocated to another site only if it is shown the preservation on its current site is inconsistent with division (A) above.

(Prior Code, Ch. 18.02, § X) (Ord. 6-1998, passed 9-16-1998)

§ 150.10 APPEAL PROVISIONS.

(A) The purpose of this section is to preserve historic buildings that are important to the education, culture, traditions and economic values of the town and to afford the town, historical organizations, property owners and other interested persons the opportunity to acquire or arrange for the preservation of these buildings.

(B) If the Commission denied 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 Commission 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.

(C) Notice of the proposed demolition must be given for a period fixed by the Commission, based on the Commission's classification on the approved map, but not less than 60 days, nor more than 1 year. Notice must be posted on the premises of the building or structure proposed for demolition clearly visible from the street. In addition, notice must be published in a newspaper of general local circulation at least 3 times before demolition with the first publication not more than 15 days before the date of the permit.

(D) The Commission may approve a certificate of appropriateness at any time during the notice period under division (C) above. If the certificate of appropriateness is approved, a demolition permit shall be issued without further delay and demolition may proceed.

(Prior Code, Ch. 18.02, § X) (Ord. 6-1998, passed 9-16-1998)

§ 150.11 MAINTENANCE.

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

(B) Nothing in this section shall be construed so as to prevent the ordinary repairs and maintenance of any building, structure or site; provided that, the 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.

(Prior Code, Ch. 18.02, § XI) (Ord. 6-1998, passed 9-16-1998)

§ 150.12 RELATIONSHIP WITH ZONING DISTRICTS.

(A) Zoning districts lying within the boundaries of the historic district are subject to regulations for both the zoning district and the historic district.

(B) If there is a conflict between the requirement of the zoning district and the requirements of the historic district, the more restrictive requirements shall apply.

(Prior Code, Ch. 18.02, § XII) (Ord. 6-1998, passed 9-16-1998)

§ 150.13 PAINT COLORS.

In an ordinance approving the establishment of an historic district, the town may exclude changes in paint colors from the activities requiring the issuance of a certificate of appropriateness under § 150.06 before a permit may be issued or work begun.

(Prior Code, Ch. 18.02, § XIII) (Ord. 6-1998, passed 9-16-1998)

§ 150.14 INTERESTED PARTIES.

(A) An interested party, as defined in § 150.01, has a private right of action to enforce and prevent violation of provisions of this chapter or an ordinance adopted by the town under this chapter 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 chapter of an ordinance adopted under this chapter.

(B) 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.

(C) The interested party bringing an action under this section does not have to post a bond unless the court, after hearing, determines that a bond should be required in the interest of justice.

(D) The interested party that brings an action under this section is not liable to any person for damage 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 chapter, or an ordinance adopted by a unit under this chapter, had been or was about to be violated.

(E) 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.

(F) An action arising under this section must be brought in the Circuit or Superior Court of the county in which the historic district lies and no changes of venue from the county shall be allowed in the action.

(Prior Code, Ch. 18.02, § XIV) (Ord. 6-1998, passed 9-16-1998)

§ 150.15 EFFECTIVE DATE.

This chapter shall take effect upon its publication following adoption by the Town Council.
(Prior Code, Ch. 18.02, § XV) (Ord. 6-1998, passed 9-16-1998)