

GENERAL ORDINANCE NO. 1157

**AN ORDINANCE ESTABLISHING A HISTORIC PRESERVATION COMMISSION
FOR THE CITY OF KENDALLVILLE, INDIANA**

BE IT ORDAINED by the Common Council of the City of Kendallville, Indiana:

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

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

WHEREAS, it is the intent of this ordinance to implement an educational and advisory program of historic preservation by the appointment of a Historic Preservation Commission and thereafter by the establishment of historic preservation districts in accordance with the provisions set forth below, now therefore;

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF
KENDALLVILLE, INDIANA:

Section 1. Purpose

a. Purpose of historic preservation and protection:

(1) To promote the educational, cultural and general welfare of the citizens of Kendallville and to encourage the harmonious and orderly growth and development of the municipality;

(2) To maintain established residential neighborhoods in danger of having their distinctiveness destroyed;

(3) To enhance property values and attract new residents;

(4) To promote the viability of the traditional Downtown/Main Street area and to enhance tourism within the City of Kendallville;

(5) It is deemed important by the City of Kendallville that qualities relating to its history and harmonious outward appearance of its structures be preserved.

b. These purposes are advanced through the restoration and preservation of historic areas and buildings, the construction of compatible new buildings where appropriate, and the maintenance and encouragement of compatibility in regards to style,

form, proportion, texture, and material between historic buildings and those of contemporary design.

c. It is the intention of the City of Kendallville through this ordinance to promote the preservation and protection of historic or architecturally worthy buildings, structures, sites, monuments, streetscapes, squares and neighborhoods of the historic districts created in accordance with this ordinance.

Section 2. Definitions.

The following terms shall have the following meaning unless a contrary meaning is required by the context or is specifically prescribed. 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.

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

b. **City:** the City of Kendallville, Indiana.

c. **Classifications:**

(1) **Outstanding:** the “O” classification means that the property has sufficient historic or architectural significance such that it is listed, or is eligible for individual listing, in the National Register of Historic Places (the “National Register”). Outstanding resources can be of local, state, or national importance.

(2) **Notable:** the “N” classification means that the property does not merit the outstanding rating, but it is still above average in its importance. A notable structure may be eligible for the National Register.

(3) **Contributing:** the “C” classification means that the property is at least 40 years old, but does not meet the criteria for an “O” or “N” classification.

Contributing properties are important to the density or continuity of the area’s historic fabric. Contributing properties can be listed in the National Register only as part of a historic district.

(4) **Non-Contributing:** property classified as “NC” is not included in a historic sites and structures inventory unless it is located within the boundaries of a historic district. Such properties may be less than 50 years old, or they may be older properties 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. These properties are not eligible for listing in the National Register.

d. **Commission:** the historic preservation commission established by this ordinance.

- e. **Demolition:** the complete or substantial removal of any building or structure located in a historic district.
- f. **Historic District:** a single building, structure, site, monument, streetscape, or square, or a concentration of buildings, structures, sites, monuments, streetscapes, squares or neighborhoods, the boundaries of which are described or delineated on a map approved in an ordinance adopted by the City Council.
- g. **Interested Party:** means one of the following:
- (1) the Mayor.
 - (2) the City Council.
 - (3) the City Plan Commission or other agency having land use planning jurisdiction over a historic district designated by ordinance.
 - (4) a neighborhood association, whether incorporated or unincorporated, a majority of whose members are residents of a historic district designated by an ordinance adopted by the City Council.
 - (5) an owner or occupant of property located in a historic district established by an ordinance adopted by the City Council.
 - (6) Historic Landmarks Foundation of Indiana, Inc., or any of its successors.
 - (7) the state historic preservation officer designated under I.C. 14-21-1-19.
- h. **Preservation Guidelines:** locally developed criteria which identify design concerns to assist property owners in maintaining the character of the historic district or buildings during the process of rehabilitation or new construction.
- i. **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.
- j. **Routine Maintenance:** work for which no Certificate of Appropriateness is required.
- k. **Secondary Area:** an area in a 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 area is to assure its compatibility and harmony with an adjacent, primary area.
- l. **Streetscape:** appearance from a public way, the distinguishing characteristics of which are created by the width of the street and sidewalks, their paving materials and color, the design of the street furniture (e. g., street lights, trash receptacles, benches, etc.) use of plant materials such as trees and shrubs, and the setback, mass, and proportion of those buildings which enclose the street.
- m. **Visual Compatibility:** those elements of design that meet the guidelines set out in Section 8 of this ordinance.

Section 3. Historic Preservation Commission Establishment and Organization

a. **Establishment.**

There is hereby established the Historic Preservation Commission of the City of Kendallville, Indiana (hereinafter referred to as the “Commission”).

b. **Composition; Appointment.**

The Commission shall consist of five (5) voting members. The voting members shall be appointed: three by the Mayor and two by the council and shall be residents of the City who are interested in the preservation and development of historic areas. The members of the Commission should include professionals in architectural history, planning, and other disciplines related to historic preservation, to the extent that those professionals are available in the community. Additional nonvoting, advisors may be utilized by the Commission or may attend commission meetings for the purpose of offering advice and input. Commission members shall serve without compensation, except for reasonable expenses incurred in the performance of their duties.

c. **Term.**

Voting members shall each serve for a term of three (3) years; however, the terms of original voting members shall be for one (1) year, two (2) years, and three (3) years in order for the terms to be staggered. A vacancy shall be filled within ninety (90) days for the duration of the term by the mayor or council that appointed the member to the vacant position.

d. **Commission Administrator.**

A City administrator designated by the Mayor 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. **Officers.**

The Commission shall elect from its membership a Chairperson and Vice-Chairperson, and Treasurer who shall serve for one (1) year and who may be reelected. The Commission Administrator shall serve as the Commission’s secretary.

f. **Rules.**

The Commission shall adopt rules 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. **Meetings.**

Commission meetings must be open to the public 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.

Section 4. Powers and Duties of the Commission

a. The Commission shall be concerned with those elements of development, redevelopment, rehabilitation, and preservation that affect visual quality in a historic district. The Commission may not consider details of design, interior arrangements, or building features, if those details, arrangements, or features are not subject to public view, and may not make any recommendation 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 a survey to identify historic buildings, sites and structures located within the City. Based on its survey, the Commission shall submit to the City Council a map describing the boundaries of a historic district or districts. A district may be limited to the boundaries of a property containing a single building, structure, or site. The map may divide a district into primary and secondary areas.

c. The Commission shall also 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 in the manner set forth in subsections (d) and (e) below.

d. Buildings, structures and sites classified as historic must possess identified historic or architectural merit of a degree warranting their preservation. They may be further classified as Outstanding, Notable, or Contributing (as defined in Section 2 of this ordinance). In lieu of these further classifications, the Commission may devise its own system of further classification for historic buildings, structures and sites.

e. Non-historic buildings and structures are those not classified on the map as historic under subsection (b).

f. The Commission may conduct additional surveys, and draw and submit additional maps for approval of the City Council, as the Commission considers appropriate.

g. The Commission may adopt preservation recommendations for architectural review applicable for any district after input from the District Owners. If adopted, preservation recommendations shall be published and made readily accessible to the general public.

h. The Commission has the authority to receive funds in order to promote its stated purposes.

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

- j. The Commission shall have the authority to:
- (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.;
 - (4) establish procedures that the Commission must follow in acquiring and disposing of property.

k. Each official of the City who has responsibility for building inspection, building permits, planning, or zoning shall provide any technical, administrative, or clerical assistance requested by the Commission. The attorney for the City shall serve as the attorney for the Commission. However, the Commission may employ other legal counsel authorized to practice law in Indiana if it considers it necessary or desirable.

Section 5. Historic Districts and Guidelines

a. City Council approval of maps of historic districts: before a historic district is established and the building classifications take effect, the map described in Section 3(b) of this ordinance, setting forth the district's boundaries and building classifications, must be submitted by the Commission to, and approved in an ordinance by, the City Council.

- b. In an ordinance approving the establishment of a historic district, the City Council may provide that for the following activities:
1. the demolition of any building;
 2. the moving of any building; and
 3. any new construction of a principal building or accessory building or structure subject to view from a public way,
 4. a conspicuous change in the exterior appearance of historic buildings by additions, construction, alteration, or maintenance involving exterior color changes;
 5. a change in walls and fences or construction of walls and fences, along public ways;
 6. a conspicuous change in the exterior appearance of non-historic buildings subject to view from a public way by additions, reconstruction, alteration, or maintenance involving exterior color change.

It is recommended that the applicant meet with the Commission to review the project and consider any recommendations of the Commission having to do with the above stated purpose of this Ordinance.

- c. Recording the fact of designation: the map establishing boundaries of a historic district may be recorded in the Office of the Noble County Recorder.

Section 6. Certificates of Appropriateness

a. Certificates of Appropriateness required: a Certificate of Appropriateness is not a condition of the issuance of a permit to proceed but may be requested by an owner and issued by or on behalf of the Commission in any of the circumstances identified in Section 5 b above.

b. Application for Certificates of Appropriateness: Application for a Certificate of Appropriateness shall be made in the office of the Commission on forms provided by that office. Detailed drawings, plans, or specifications are not required. However, to the extent reasonably required for the Commission to make recommendations, each application must be accompanied by sketches, drawings, photographs, descriptions, or other information showing the proposed exterior alterations, additions, changes, or new construction.

c. Approval or denial of Certificates of Appropriateness: the Commission shall advise and make recommendations to the applicant before acting on an application for a certificate of appropriateness. If an application for a Certificate of Appropriateness is approved by the Commission, or is not acted on by the Commission within thirty (30) days after it is filed, a Certificate of Appropriateness shall be issued. If the certificate is issued, the application shall be processed in the same manner as applications for building or demolition permits required by the City, if any are processed. If no building or demolition permits are required, the applicant may proceed with the work authorized by the certificate. If the Commission denies an application for a certificate of appropriateness within 30 days after it is filed, the certificate may not be issued. The Commission must state its reasons for the denial in writing, and must advise the applicant. The Commission may grant an extension of the thirty-day limit if the applicant agrees to it.

d. Criteria for considering effect of actions on historic buildings: the Commission, in considering the appropriateness of any reconstruction, alteration, maintenance, or moving of a historic building or any part of or appurtenance to such building, including walls, fences, light fixtures, steps, paving, and signs shall recommend that such 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 ordinance;
- (2) Historical and architectural value and significance of the building, structure, site or appurtenance;
- (3) Compatibility and significance of additions, alterations, details, materials, 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 within the same historic district, including for primary areas, visual compatibility as defined in Section 8(b) of this ordinance; and,

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

- e. Procedure for demolition upon denial of a Certificate of Appropriateness.

The purpose of this subsection is to encourage the preservation of historic buildings that are important to the education, culture, traditions and economic values of the City, and to afford the City, historical organizations, and other interested persons the opportunity to acquire or to arrange for the preservation of these buildings. If a property owner of a historic building applies for a permit for the building to be demolished, before a demolition permit is issued or demolition proceeds, the property owner shall be encouraged to go through the request for a certificate of appropriateness, to obtain input from the commission and if appropriate, put the owner in contact with individuals or organizations interested in historic preservation that may have the means, or contacts that have the means, to purchase and preserve historic buildings.

Section 7. Visual Compatibility

- a. For new construction, contemporary design, and non-historic buildings: the commission shall consider that to preserve and encourage the integrity of historic buildings, structures, sites, monuments, streetscapes, and neighborhoods and to ensure their compatibility with any new work, before a Certificate of Appropriateness may be issued, the construction of a new building or structure, and the moving, reconstruction, alteration, major maintenance, or repair involving a color change conspicuously affecting the external appearance of any non-historic building, structure, or appurtenance within the primary area of a historic district 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, particularly with buildings designated as historic, and with squares and places to which it is visually related.

- b. Criteria for considering visual compatibility: within the primary area of a historic district, new buildings and structures, as well as buildings, structures, and appurtenances that are moved, reconstructed, materially altered, repaired, or changed in color, must be visually compatible with buildings, squares and places to which they are visually related generally in terms of the following visual compatibility factors:

- (1) Height: the height of proposed buildings must be visually compatible with adjacent buildings.
- (2) Proportion of building's front facade: 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) Proportion of openings within the facility: the relationship of the width of the windows to the height of windows in a building must be visually compatible with buildings, squares, and places to which it is visually related.

- (4) Rhythm of solids to voids in front facades: the relationship of solids to voids in the front facade of a building must be visually compatible with buildings, squares, and places to which it is visually related.
- (5) Rhythm of spacing of buildings on streets: the relationship of a building to the open space between it and adjoining buildings must be visually compatible with buildings, squares, and places to which it is visually related.
- (6) Rhythm of entrances and porch projections: 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) Relationship of materials, texture, and color: the relationship of the materials, texture, and color of the facade of a building must be visually compatible with the predominant materials used in the buildings to which it is visually related.
- (8) Roof shapes: the roof shape of a building must be visually compatible with the buildings to which it is visually related.
- (9) Walls of continuity: appurtenances of a building 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, squares, and places to which it is visually related.
- (10) Scale of a building: the size of a building, and the building mass of a building in relation to open spaces, windows, door openings, porches, and balconies must be visually compatible with the buildings, squares, and places to which it is visually related.
- (11) Directional expression of front elevation: a building must be visually compatible with buildings, squares, and places to which it is visually related in its directional character, including vertical character, horizontal character, or non-directional character.

Section 8. Goal of Preservation of Historical and Architectural Character Upon Alteration or Relocation

a. A certificate of appropriateness may be issued for a historic building or structure or any part of or an appurtenance to such a building or structure, including stone walls, fences, light fixtures, steps, paving, and signs proposed to be moved, reconstructed, altered, or maintained only if it is proposed in a manner that will preserve the historical and architectural character of the building, structure, or appurtenance.

b. A certificate of appropriateness may be issued for a historic building proposed to be relocated to another site only if it is shown that preservation on its current site is inconsistent with subsection (a).

Section 9. Maintenance

a. The Commission shall recommend and educate the public such that historic buildings may 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. Ordinary repairs and maintenance: nothing in this section shall be construed to discourage the ordinary repairs and maintenance of any historic building, provided that such repairs or maintenance do not result in a conspicuous change to the historical significance in the design, form, proportion, mass, configuration, building material, texture, color, location, or external visual appearance of any structure, or part thereof.

Section 10. Severability

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

Section 11. This ordinance shall be in full force and effect from and after its passage by the city council and approval by the Mayor.

ORDAINED AND PASSED this _____ day of _____, 2012.

| | YEA | NAY | ABSTAIN | ABSENT |
|-------------------|-------|-------|---------|--------|
| Larry Davis | _____ | _____ | _____ | _____ |
| James C. Dazey II | _____ | _____ | _____ | _____ |
| Regan Ford | _____ | _____ | _____ | _____ |
| Max Franklin | _____ | _____ | _____ | _____ |
| April Waters | _____ | _____ | _____ | _____ |

W. Suzanne Handshoe, Mayor

Presented by me to the mayor for approval this _____ day of _____,
2012.

Sheryl Hanes, Clerk-Treasurer

The above attached ordinance is approved/vetoed by me this _____ day of
_____, 2012.

W. Suzanne Handshoe, Mayor

ATTEST:

Sheryl Hanes, Clerk-Treasurer

Adapted from: I.C. 36-7-11. Historic Preservation