

**STATE OF MICHIGAN
COUNTY OF WAYNE
CHARTER TOWNSHIP OF PLYMOUTH**

HISTORIC DISTRICT ORDINANCE

ORDINANCE NO. _____

AN ORDINANCE TO CREATE THE PLYMOUTH HISTORIC DISTRICT ORDINANCE; TO PROVIDE FOR TITLE, SCOPE, PURPOSE AND INTENT; TO PROVIDE FOR DEFINITIONS; TO PROVIDE FOR THE ESTABLISHING, MODIFYING, OR ELIMINATING HISTORIC DISTRICTS; TO PROVIDE FOR THE HISTORIC DISTRICT COMMISSION; TO PROVIDE FOR COMMISSION MEETINGS, RECORDKEEPING, AND PROCEDURE; TO PROVIDE FOR HISTORIC DISTRICT STUDY COMMITTEE AND STUDY COMMITTEE REPORT; TO PROVIDE FOR PROCEDURE FOR CREATION OF HISTORIC DISTRICTS; TO PROVIDE FOR PERMIT APPLICATIONS; TO PROVIDE FOR ORDINARY MAINTENANCE; TO PROVIDE FOR REVIEW BY THE COMMISSION; TO PROVIDE FOR APPEAL OF COMMISSION DECISION; TO PROVIDE FOR REMEDIES FOR WORK WITHOUT A PERMIT; TO PROVIDE FOR PROTECTION FROM DEMOLITION BY NEGLIGENCE; TO PROVIDE FOR EMERGENCY MORATORIUM; TO PROVIDE FOR PENALTIES FOR VIOLATION; TO PROVIDE FOR ACCEPTANCE OF GIFTS OR GRANTS; TO REPEAL ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR SAVINGS CLAUSE; TO PROVIDE FOR PUBLICATION; AND TO PROVIDE AN EFFECTIVE DATE.

THE CHARTER TOWNSHIP OF PLYMOUTH ORDAINS:

Ordinance No. _____, the Historic District Ordinance, is hereby adopted to read as follows:

SECTION I: HISTORIC DISTRICT ORDINANCE

1.1. Title

This Ordinance shall be known as the "Historic District Ordinance of the Charter Township of Plymouth".

1.2. Scope, purpose and intent.

The purpose of this ordinance is to foster the preservation of historic structures and places within the Charter Township of Plymouth by enabling owners to voluntarily seek the creation of historic districts for their properties under applicable laws of the State of Michigan. The purpose is also to safeguard property rights by requiring approval of a proposed historic district from each of the property owners within the proposed historic district.

Historic preservation is hereby declared to be a public purpose and the Board of Trustees of the Charter Township of Plymouth may hereby regulate, in compliance with this ordinance the construction, addition, alteration, repair, moving, excavation, and demolition of resources in historic districts within the Township limits. The intent of this ordinance is to:

1. Safeguard the heritage of the Charter Township of Plymouth by preserving districts which reflect elements of its history, architecture, archaeology, engineering, or culture.
2. Stabilize and improve property values in each district and the surrounding areas.
3. Foster civic beauty.
4. Strengthen the local economy.
5. Promote the use of historic districts for the education, pleasure, and welfare of the citizens of the Charter Township of Plymouth and of the State of Michigan.

The Board of Trustees may by ordinance establish one or more historic districts. All historic districts shall be administered by the Historic District Commission pursuant to this Ordinance.

1.3. Definitions.

1. "**Alteration**" means work that changes the detail of a resource but does not change its basic size or shape.
2. "**Certificate of Appropriateness**" means the written approval of a permit application for work that is appropriate and does not adversely affect a resource.
3. "**Commission**" means the Historic District Commission of the Charter Township of Plymouth.
4. "**Committee**" means the Commission acting as a historic district study committee under this Ordinance.
5. "**Demolition**" means the razing or destruction, whether entirely or in part, of a resource and includes, but is not limited to, demolition by neglect.

6. "**Demolition by Neglect**" means neglect in maintaining, repairing, or securing a resource that results in deterioration of an exterior feature of the resource or the loss of structural integrity of the resource.

7. "**Denial**" means the written rejection of a permit application for work that is inappropriate and that adversely affects a resource.

8. "**Fire Alarm System**" means a system designed to detect and annunciate the presence of fire or by-products of fire. Fire alarm system includes smoke alarms.

9. "**Historic District**" means an area, or group of areas, not necessarily having contiguous boundaries, that contains one resource or a group of resources that are related by history, architecture, archaeology, engineering, or culture.

10. "**Historic Preservation**" means the identification, evaluation, establishment, and protection of resources significant in history, architecture, archaeology, engineering, or culture.

11. "**Historic Resource**" means a publicly or privately owned building, structure, site, object, feature or open space that is significant in the history, architecture, archaeology, engineering, or culture of the Charter Township of Plymouth, State of Michigan, or the United States.

12. "**Notice to Proceed**" means the written permission to issue a permit for work that is inappropriate and that adversely affects a resource, pursuant to a finding under MCL 399.205(6).

13. "**Open Space**" means undeveloped land, a naturally landscaped area, or a formal or man-made landscaped area that provides a connective link or buffer between other resources.

14. "**Ordinary Maintenance**" means keeping a resource unimpaired and in good condition through ongoing minor intervention, undertaken from time to time, in its exterior condition. Ordinary maintenance does not change the external appearance of the resource except through the elimination of the usual and expected effects of weathering. Ordinary maintenance does not constitute work for the purposes of this Ordinance.

15. "**Proposed Historic District**" means an area, or group of areas not necessarily having contiguous boundaries, that has delineated boundaries and that is under review by the Historic District Study Committee for the purpose of making a recommendation as to whether it should be established as a historic district or added to an established historic district.

16. "**Repair**" means to restore a decayed or damaged resource to good or sound condition by any process. A repair that changes the external appearance of a resource constitutes work for the purposes of this Ordinance.

17. "**Resource**" means one or more publicly or privately owned historic or non-historic buildings, structures, sites, objects, features, or open spaces located within a historic district.

18. **"Smoke Alarm"** means a single-station or multiple-station alarm responsive to smoke and not connected to a system. As used in this subdivision, "single-station alarm" means an assembly incorporating a detector, the control equipment, and the alarm sounding device into a single unit, operated from a power supply either in the unit or obtained at the point of installation. "Multiple-station alarm" means 2 or more single-station alarms that are capable of interconnection such that actuation of 1 alarm causes all integrated separate audible alarms to operate.

19. **"Work"** means construction, addition, alteration, repair, moving, excavation, or demolition.

1.4. Establishing, Modifying, or Eliminating Historic Districts.

1. The Board of Trustees may at any time, upon recommendation of the Commission, establish by ordinance a historic district, including a proposed district previously considered and rejected, may modify boundaries of an existing historic district, or may eliminate an existing historic district. Before establishing, modifying, or eliminating a historic district, the Commission shall act as a historic district study committee and shall follow the procedures as provided in this Ordinance.

2. In considering elimination of a historic district, the Commission shall follow the procedures set forth in Section 399.203(1)-(3) of Public Act 169 of 1970, as amended, for the issuance of a preliminary report, holding a public hearing, and issuing a final report but with the intent of showing one or more of the following:

- a. The historic district has lost those physical characteristics that enabled the establishment of the district.
- b. The historic district was not significant in the way previously defined.
- c. The historic district was established pursuant to defective procedures.

1.5. Historic District Commission.

The Historic District Commission of the Charter Township of Plymouth is hereby established. Each member of the Commission shall reside within the Township limits. The Commission shall consist of seven (7) members. Each member shall be appointed by the Board of Trustees. A majority of the members shall have a clearly demonstrated interest in or knowledge of historic preservation. Initial members shall be appointed within 6 months after the ordinance establishing the commission is enacted. Members shall be appointed for a term of three (3) years, except the initial appointments of three (3) members for a term of two (2) years and two (2) members for a term of one year. Subsequent appointments shall be for three-year terms. Members shall be eligible for reappointment. In the event of a vacancy on the Commission, interim appointments shall be made by the Board of Trustees within sixty (60) calendar days to complete the unexpired term of such position. Two (2) members shall be appointed from a list submitted by duly organized local historic preservation organizations. If such a person is available for appointment, one member shall be an architect who has two years of architectural experience or who is duly registered in the State of Michigan.

The Board of Trustees may by resolution prescribe powers and duties of the Commission, in addition to but not in violation of those prescribed in this Ordinance, that foster historic preservation activities, projects, and programs in the Charter Township of Plymouth. The Board of Trustees may provide procedures for terminating an appointment due to the acts or omissions of the member.

1.6. Commission Meetings, Recordkeeping, and Procedure.

1. The Commission shall meet at least quarterly, if there is business to be considered, or more frequently at the call of the chairman of the Commission.
2. The business that the Commission may perform shall be conducted at a public meeting held in compliance with the Open Meetings Act, Public Act 267 of 1976, as amended. Public notice of the date, time, and place of the meeting shall be given in the manner required by Public Act 267. A meeting agenda shall be part of the notice and shall include a listing of each permit application to be reviewed or considered by the Commission.
3. The Commission shall keep a record of its proceedings and actions. A writing prepared, owned, used, in the possession of, or retained by the Commission in the performance of an official function shall be made available to the public in compliance with the Freedom of Information, Public Act 442 of 1976, as amended.
4. The commission shall adopt design review standards and guidelines to carry out its duties under this act.

1.7. Historic District Study Committee and the Study Committee Report.

The Commission shall act as the Historic District Study Committee for purposes of this Ordinance and the laws of the State of Michigan. The Study Committee shall do all of the following:

1. Conduct a photographic inventory of resources within each proposed historic district following procedures established by the State Historic Preservation Office of the Michigan Historical Center.
2. Conduct basic research of each proposed historic district and historic resources located within that district.
3. Determine the total number of historic and non-historic resources within a proposed historic district and the percentage of historic resources of that total. In evaluating the significance of historic resources, the Committee shall be guided by the selection criteria for evaluation issued by the United States Secretary of the Interior for inclusion of resources in the National Register of Historic Places, as set forth in 36 CFR part 60, and criteria established or approved by the State Historic Preservation Office.

4. Prepare a preliminary Historic District Study Committee report that addresses at a minimum all of the following:

- a. The charge of the Committee.
- b. The composition of Committee membership.
- c. The historic district(s) studied.
- d. The boundaries of each proposed historic district in writing and on maps.
- e. The history of each proposed historic district.
- f. The significance of each district as a whole, as well as a sufficient number of its individual resources to fully represent the variety of resources found within the district, relative to the evaluation criteria.

5. The Committee shall transmit copies of the preliminary report for review and recommendations to the Planning Commission, the State Historic Preservation Office, the Michigan Historical Commission, and the State Historic Preservation Review Board.

6. The Committee shall make copies of the preliminary report available to the public pursuant to MCL 399.203(4).

7. Not less than sixty (60) calendar days after the transmittal of the preliminary report, the Committee shall hold a public hearing in compliance with Public Act 267 of 1976, as amended. Public notice of the time, date and place of the hearing shall be given in the manner required by Public Act 267 of 1976, as amended. Written notice shall be mailed by first class mail not less than fourteen (14) calendar days prior to the hearing to the owners of properties within the proposed historic district, as listed on the most current tax rolls. The report shall be made available to the public in compliance with the Michigan Freedom of Information Act, Public Act 442 of 1976, as amended.

8. After the date of the public hearing, the Committee and the Board of Trustees shall have not more than one year, unless otherwise authorized by the Board of Trustees, to take the following actions:

- a. The Committee shall prepare and submit a final report with its recommendations and the recommendations, if any, to the Planning Commission, the State Historic Preservation Office, the Michigan Historical Commission, the State Historic Preservation Review Board, and the Board of Trustees as to the establishment of a historic district. If the recommendation is to establish a historic district, the final report shall include a draft of the proposed ordinance.
- b. After receiving a final report that recommends the establishment of a historic district, the Board of Trustees, at its discretion, may introduce and approve or reject an ordinance. If the Board of Trustees approves an ordinance establishing one or more historic districts, the Clerk

of the Charter Township of Plymouth shall file a copy of the ordinance, including a legal description of the property or properties located within each historic district, with the Register of Deeds. The Board of Trustees shall not pass an ordinance establishing a contiguous historic district less than 60 days after a majority of the property owners within the proposed historic district, as listed on the tax rolls of the local unit, have approved the establishment of the historic district pursuant to a written petition.

1.8. Procedure for Creation of Historic Districts.

The procedure for the creation of a historic district in the Charter Township of Plymouth shall be only as follows. The owner, or owners, of a property, structure, or place shall submit a written application to the building department of the Charter Township of Plymouth for creation of a historic district. The application shall be forwarded to the Committee within two business days of its submission. The Committee shall, within ninety (90) days, meet to consider the application. In considering the application, the Committee shall follow the procedures set forth in Section 1.7.

1.9. Permit Applications.

1. A permit shall be obtained before any work affecting the exterior appearance of a resource is performed within a historic district. The person, individual, partnership, firm, corporation, organization, institution, or agency of government proposing to do that work shall file an application for a permit with the building department of the Charter Township of Plymouth.
2. Upon receipt of a complete application, the building department shall immediately refer the application, along with all required supporting materials that make the application complete, to the Commission.
3. A permit shall not be issued and proposed work shall not proceed until the Commission has acted on the application by issuing a Certificate of Appropriateness or a Notice to Proceed as prescribed in this Ordinance. The Commission shall not issue a certificate of appropriateness unless the applicant certifies in the application that the property where work will be undertaken has, or will have before the proposed project completion date, a fire alarm system or a smoke alarm complying with the requirements of the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531.
4. The Commission shall file Certificates of Appropriateness, Notices to Proceed, and Denials of applications for permits with the building department. A permit shall not be issued until the Commission has acted as prescribed by this Ordinance.
5. If an application is for work that will adversely affect the exterior of a resource, and the Commission determines that the alteration or loss of that resource will adversely affect the public interest of the Charter Township of Plymouth, the State of Michigan, or the nation, the Commission shall attempt to establish with the owner of the resource an economically feasible plan for the preservation of the resource.

6. The failure of the Commission to act on an application within sixty (60) calendar days after the date a complete application is filed, unless an extension is agreed upon in writing by the applicant and the Commission, shall be considered to constitute approval.
7. The Commission may charge a reasonable fee to process a permit application.
8. If a permit application is denied, the decision shall be binding on the building department and the Charter Township of Plymouth. A Denial shall be accompanied by a written explanation by the Commission of the reasons for denial and, if appropriate, a notice that an application may be re-submitted for Commission review when the suggested changes have been made. The Denial shall also include the notification of the applicant's right to appeal to the State Historic Preservation Review Board and thereafter, to the circuit court.
9. Work within a historic district shall be permitted through the issuance of a Notice to Proceed by the Commission if any of the following conditions prevail and if the proposed work can be demonstrated by a finding of the Commission to be necessary to substantially improve or correct any of the following conditions:
 - a. The resource constitutes a hazard to the safety of the public or to the structure's occupants.
 - b. The resource is a deterrent to a major improvement program that will be of substantial benefit to the community and the applicant proposing the work has obtained all necessary planning and zoning approvals, financing, and environmental clearances.
 - c. Retaining the resource will cause undue financial hardship to the owner when a governmental action, an act of God, or other events beyond the owner's control created the hardship, and all feasible alternatives to eliminate the financial hardship, which may include offering the resource for sale at its fair market value or moving the resource to a vacant site within the historic district, have been attempted and exhausted by the owner.
 - d. Retaining the resource is not in the interest of the majority of the community.

1.10. Ordinary Maintenance.

Nothing in this Ordinance shall be construed to prevent ordinary maintenance or repair of a resource within a historic district or to prevent work on any resource under a permit issued by the building department or other duly delegated authority before the Ordinance was enacted.

1.11. Review by the Commission.

1. The Commission shall review and act upon only exterior features of a resource and shall not review and act upon interior arrangements unless specifically requested to do so by the owner of the resource or unless interior work will cause visible change to the exterior of the resource.
2. The Commission shall not disapprove an application due to considerations not prescribed in MCL 399.205(3).
3. In reviewing plans, the Commission shall follow the U.S. Secretary of Interior's Standards for Rehabilitation and guidelines for rehabilitating historic buildings as set forth in 36 C.F.R. part 67. Design review standards and guidelines that address special design characteristics of historic districts administered by the Commission may be followed if they are equivalent in guidance to

the Secretary of Interior's Standards and guidelines and are established or approved by the State Historic Preservation Office.

4. In reviewing plans, the Commission shall also consider all of the following:

- a. The historic or architectural value and significance of the resource and its relationship to the historic value of the surrounding area.
- b. The relationship of any architectural features of the resource to the rest of the resource and to the surrounding area.
- c. The general compatibility of the design, arrangement, texture, and materials proposed to be used.
- d. Other factors, such as aesthetic value, that the commission finds relevant.
- e. Whether the applicant has certified in the application that the property where the work will be undertaken has, or will have before the proposed project completion date, a fire alarm system or a smoke alarm complying with the requirements of the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531.

1.12. Appeal of a Commission Decision.

An applicant aggrieved by a decision of the Commission concerning a permit application may file an appeal with the State Historic Preservation Review Board. The appeal shall be filed within sixty (60) calendar days after the decision is furnished to the applicant. The permit applicant may submit all or part of the permit applicant's evidence and arguments in written form. The State Historic Preservation Review Board shall consider an appeal at its first regularly scheduled meeting after receiving the appeal. A permit applicant aggrieved by the decision of the State Historic Preservation Review Board may appeal the decision to the circuit court for the County of Wayne.

1.13. Work Without a Permit.

When work has been done upon a resource without a permit, and the Commission finds that the work does not qualify for a Certificate of Appropriateness, the Commission may require an owner to restore the resource to the condition that the resource was in before the inappropriate work or to modify the work so that it qualifies for a Certificate of Appropriateness. If the owner does not comply with the restoration or modification requirement within a reasonable time, the Commission may seek an order from the circuit court for the County of Wayne to require the owner to restore the resource to its former condition or to modify the work so that it qualifies for a Certificate of Appropriateness. If the owner does not comply or cannot comply with the order of the court, the Commission may direct the building department to enter the property and conduct work necessary to restore the resource to its former condition or modify the work so that it qualifies for a Certificate of Appropriateness in accordance with the court's order. The costs of the work done shall be charged to the owner, and may be levied as a special assessment against the property. When acting pursuant to an order of the circuit court, the building department may enter a property for purposes of this section.

1.14. Demolition by Neglect.

Upon a finding by the Commission that a resource within a historic district is threatened with Demolition by Neglect, the Commission may do either of the following:

1. Require the owner of the resource to repair all conditions contributing to demolition by neglect.
2. If the owner does not make repairs within a reasonable time, the Commission may authorize the building department to enter the property and make such repairs as necessary to prevent Demolition by Neglect. The costs of the work shall be charged to the owner, and may be levied as a special assessment against the property. The building department may enter the property for purposes of this section upon obtaining an order from the circuit court for the County of Wayne.

1.15. Emergency Moratorium.

If the Board of Trustees determines that pending work will cause irreparable harm to resources located within a historic district, the Board of Trustees may by resolution declare an emergency moratorium on all such work for a period not to exceed six (6) months. The Board of Trustees may extend the emergency moratorium for an additional period not to exceed six (6) months, upon finding that the threat of irreparable harm to a resource or resources is still present. Any pending permit application concerning a resource subject to an emergency moratorium may be summarily denied.

1.16. Penalties for Violations.

1. A person, individual, partnership, firm, corporation, organization, institution, or agency of government that violates this Ordinance is responsible for a civil violation and may be fined not more than \$5,000.00.
2. A person, individual, partnership, firm, corporation, organization, institution, or agency of government that violates this Ordinance may be ordered by the circuit court for the County of Wayne to pay the costs to restore or replicate a resource unlawfully constructed, added to, altered, repaired, moved, excavated, or demolished.

1.17. Acceptance of Gifts or Grants.

The Board of Trustees may accept state or federal grants for historic preservation purposes; may participate in state and federal programs that benefit historic preservation, and may accept public or private gifts for historic preservation purposes. The Board of Trustees may by resolution delegate to the Commission the administration of grants, gifts, and program responsibilities.

SECTION II. REPEAL.

All Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance, except as herein provided, are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

SECTION III. SEVERABILITY.

If any section, subsection, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portion thereof.

SECTION IV. SAVINGS CLAUSE.

The repeal or amendment herein shall not abrogate or affect any offense or act committed or done, or any penalty or forfeiture incurred, or any pending litigation or prosecution of any right established or occurring prior to the effective date of this Ordinance.

SECTION V. PUBLICATION.

The Clerk for the Charter Township of Plymouth shall cause this Ordinance to be published in the manner required by law.

SECTION VI. EFFECTIVE DATE.

This Ordinance shall take full force and effect upon publication.

CERTIFICATION

The foregoing Ordinance was duly adopted by the Charter Township of Plymouth Board Trustees at its regular meeting called and held on the _____ day of _____, 2019, and was ordered to be given publication in the manner required by law.

Jerry Vorva, Clerk

Introduced: _____
Published: _____
Adopted: _____
Effective upon Publication: _____