

EMERGENCY ORDINANCE 31-09

AN EMERGENCY ORDINANCE TO PRESERVE, ADVANCE AND MAINTAIN THE DISTINCTIVE ARCHITECTURAL AND HISTORICAL CHARACTER OF THE CITY OF DOVER, OHIO AND PROMOTE THE EDUCATIONAL, CULTURAL, ECONOMIC AND GENERAL WELFARE OF THE CITIZENS OF THE CITY OF DOVER, OHIO BY THE PRESERVATION OF THE ARCHITECTURAL AND HISTORICAL CHARACTER, THE ENHANCEMENT OF REAL PROPERTY VALUES, THE DEVELOPMENT OF THE LOCAL ECONOMY AND TO ESTABLISH A LEGAL FRAMEWORK THAT WILL SUPPORT THE USE OF LOCAL, STATE AND FEDERAL FINANCIAL INCENTIVES FOR THE PRESERVATION OF HISTORIC SITES AND STRUCTURES WITHIN THE CITY OF DOVER.

I.

PURPOSES

A. The purposes of this Chapter are:

1. The preservation and maintenance of the distinctive and architectural and historic character of the city of Dover.
2. The promotion of the educational, cultural, economic and general welfare of the residence property owners of the city of Dover.
3. The encouragement of harmonious, orderly, and efficient growth and redevelopment of the city of Dover.
4. The development of the local economy.
5. The enhancement of real property values.
6. The promotion of tourism.
7. The establishment of a legal framework that will support the use of local, state, and federal financial incentives for preservation of historic sites and structures within the city of Dover.

B. The provisions of this Chapter shall supplement and supersede provisions of other provisions or chapter of the Dover Codified Ordinances and any orders or decisions of any board or agency of the City of Dover.

C. The provisions of this Chapter shall be construed to accomplish these purposes. Any conflict between the provisions of this Chapter and any other ordinance shall be resolved

to carry out the purpose of this Chapter unless clearly indicated otherwise by the language of conflicting ordinances.

D. The provisions of this Chapter shall apply to the historic districts described in Section V, the sites and structures designated as historically significant structures and the Corridor Districts described in Section VI.

II

DEFINITIONS

For the purposes of this ordinance and to promote the historic preservation of the City of Dover, the following definitions apply to the Dover historic districts, Dover corridor districts and historically significant structures as approved by the Architectural Review Board pursuant to section IV (C) of this ordinance. These definitions supplement and are in addition to the definitions in other portions of the ordinances of the City of Dover, Ohio. If these definitions are inconsistent with other definitions in the ordinances of the City of Dover, these definitions apply to the historic districts, corridors districts and approved historically significant structures established by this ordinance.

A. **Alter or Alteration.** Any change to the exterior architectural features of a structure, to include exterior expansion of buildings, as visible from public streets.

B. **Board.** The Architectural Review Board established by this Chapter.

C. **Building.** A structure used for a residence, business activity, or storage.

D. **Building Permit.** A permit as defined in Chapter 1125.

E. **Commercial Use.** Any use of real estate for the generation of income other than rent.

F. **Construction.** Any activity for which a building permit is required.

G. **Corridor District.** Any area of the city designated by this Chapter as a "Corridor District" and any area that may be so designated in the future by ordinance.

H. **Demolish or Demolition.** Razing, removal, moving, or other destruction of any structure in whole or in part.

I. **Emergency Repairs.** Any temporary addition, modification, or other steps taken to prevent further damage to structures resulting from natural causes or other casualties (which would not require a Building Permit).

J. Exterior Architectural Feature. Any building element visible from a public street, to include but not limited to walls, roofs, windows, doors, porches, steps, signs, and decorative or ornamental elements.

K. Financial Incentives. Any benefit provided by any governmental entity, other than ordinary public services, to include tax credits, tax deductions, grants, or other valuable benefits available to property owners in connection with the preservation or restoration of structures.

L. Historic District. Any area of the city designated by this Chapter as a "Historic District" and any area that may be so designated in the future by ordinance.

M. Historically Significant Structure. Any structure which is at least 50 years old and is included in at least one of the following categories:

1. Any structure listed on the National Register of Historic Places.
2. Any structure preliminarily determined to be eligible for listing on the National Register of Historic Places by the Ohio Historic Preservation Office.
3. Any structure designated by the Board as a historically significant structure pursuant to this Chapter.

N. Ordinary Repairs and Maintenance. Restoration of any architectural features of a structure which do not involve a change in the design, material, or outward appearance of the structure, and which does not require issuance of a Building Permit.

O. Preservation Easement. A grant of an interest in real estate to the City of Dover or a non-profit entity by a property owner which by its terms restricts the property owner from altering the appearance of the facade of any building located within a historic district or a building designated as a historically significant structure.

P. Reconstruction. Rebuilding or restoration of a structure following demolition or damage of a significant portion of a structure.

Q. Sign. Any structure included in the definition of a sign set forth in Ordinance 15-09.

R. Street. Any public way defined as a "street" in Chapter 301 of the Dover Codified Ordinances.

S. Structure. Any construction secured to the ground and extending more than 3 feet in height, including but not limited to buildings, fences, walls, free standing signs, and light and flag poles.

T. Substantial Hardship. Either of the following conditions:

1. In an income producing building circumstances in which compliance with design standards would prevent a reasonable economic return when considering a reasonable period of amortization.

2. Where the structure is not an income producing building, circumstances in which compliance with the design standards would be substantially disproportionate with the fair market value of the building after the proposed alteration, reconstruction or partial demolition.

U. **Through Street.** A public way as defined in Sec. 313.02 of the Dover Codified Ordinance.

III

ARCHITECTURAL REVIEW BOARD

A. **Creation.** To carry out the provisions of this Chapter there is established the Architectural Review Board.

B. **Membership.** The Architectural Review Board shall be composed of nine voting members appointed by the Mayor and approved by Council. The Mayor shall consider for appointment as members:

1. A member of the City Council.

2. A member of the City Planning Commission.

3. An architect.

4. A member of a formally established historical association or other person with historical or preservation expertise.

5. A person owning real estate within the Downtown Historic District.

6. A person owning property and residing in any historic district established by this ordinance, as amended, other than the Downtown Historic District.

At least six members of the Board shall be residents of the city of Dover.

C. **Term of Office.** The term of office for each member shall be four years beginning on the effective date of this ordinance. However, four of the positions, as designated by the Mayor, shall have an initial term of two years. Any member of the Board may be removed by a majority vote of Council for repeated failure to attend Board meetings or other cause deemed appropriate by Council.

D. Vacancies. The Mayor may appoint, with approval of Council, a replacement member for any vacancy on the Board, to serve the remainder of the term of the member who has resigned or who has otherwise been removed from the Board.

E. Non-Voting Members. Non-voting members of the Board shall include the Mayor, Law Director, and Building Inspector. The Board may appoint as a non-voting member any person having expertise helpful in carrying out the purposes of this Chapter.

F. Compensation. Voting members of the Board and City officers serving as non-voting members shall serve without compensation. Any other non-voting member may be compensated only as authorized by Council.

G. Meetings.

1. The Board shall meet no less frequently than quarterly and more frequently upon the call of the Chairman or a majority of the members of the Board. The Board shall meet so as to act within the times provided in this Chapter for action on any application for a certificate of appropriateness. The Board shall establish a regular schedule for meetings. The Board may conduct meetings to consider any matter within the Board's responsibilities after giving notice in writing, telephone or other reasonable method of communication to members of the Board and any persons having an interest in the Board's proceedings. All proceedings of the Board shall comply with notice requirements for public agencies as required by Ohio Law.

2. A quorum shall be required to conduct any Board business. A majority of the voting Board members shall constitute a quorum.

3. All Board meetings shall be open to the public.

H. Organization and Procedures.

1. The Board shall yearly elect the following officers:

a. A Chairman whose duties shall involve the calling of meetings, provision of meeting notices to Board members and applicants for certificates of appropriateness, and presiding over Board meetings.

b. A Vice Chairman to act in the absence of the Chairman.

c. A member of the Board to record the minutes of Board meetings and to keep records generated or acquired by the Board.

2. The Board may adopt rules governing the conduct of its business, including any application forms, instructions and procedures to carry out the Board's responsibilities.

Unless otherwise provided, Roberts Rules of Order shall apply in conducting Board business.

I. Conflict of Interest. No member of the Board may participate in any decision of the Board affecting, directly or indirectly, any property in which the member has a legal or equitable interest or in which a family member or business associate has a legal or equitable interest.

J. The Mission of the Dover Architectural Review Board is to preserve the City of Dover's architectural heritage, to foster an attractive environment for the City's residents and property owners, and to encourage tourism and economic development in the City of Dover.

IV

RESPONSIBILITIES OF ARCHITECTURAL REVIEW BOARD

The Board shall carry out the following responsibilities:

A. Establishment of design standards for alteration and reconstruction of structures within the Historic Districts and applicable to historically significant structures. Such standards shall include, as a minimum, the Secretary of the Interior's Standards for Rehabilitation.

B. Establishment of design standards for new construction within the designated Historic Districts and Corridor Districts.

C. Designation of historically significant structures.

D. Establishment of standards for the acquisition and acceptance of preservation easements.

E. Consideration and action upon applications for certificates of appropriateness and requests for waivers of the provisions of this Chapter and any duly enacted design standards.

F. Provision of advice and assistance to property owners in applying for certificates of appropriateness.

G. Provision of advice and assistance to property owners on application for financial incentives related to preservation or restoration of buildings within historic districts or for preservation or restoration of historically significant structures.

H. Recommend legislation to Council, which may be appropriate to carry out the purposes of this Chapter.

I. Formulation of standards and procedures to meet Certified Local Government guidelines prescribed by the Ohio Historic Preservation Office.

J. Recommend to Council, the Mayor or other Municipal Officers, Departments or Agencies policies, practices or actions on aesthetic issues including “Green Spaces” related to historic districts and corridors.

K. Enforcement of provisions of this Chapter.

V

DESIGNATION OF HISTORIC DISTRICTS AND HISTORICALLY SIGNIFICANT STRUCTURES

A. The following are designated as Historic Districts within the city of Dover:

1. The Historic Downtown District, bounded and as now described as follows:

The Historic Downtown District shall include the entire B-3 zoned area and the contiguous R-4 zoned area extending north along Wooster Avenue, and the S-1 zoned area that is wholly contained within the B-3 zoned area. Subsequent amendment of zoning districts shall not change the boundaries of the Historic Downtown District unless specifically provided by such amendment.

2. East Iron Ave. Historic District, bounded as follows:

The lots contiguous with East Iron Avenue from South Wooster Avenue to Medical Park Drive.

3. North Wooster Historic District, bounded as follows:

The lots contiguous with North Wooster Avenue from Fourth Streets, East and West, to Thirteenth Streets, East and West.

4. East Third Street Historic District, bounded as follows:

The lots contiguous with East Third Street from Race Street to Lincoln Avenue.

B. A property owner may apply to the Board for designation of a structure on the owner's property as a "Historically Significant Structure". A structure may be designated by the Board as a "Historically Significant Structure" if it meets any of the following qualifications:

1. The structure has significant inherent character, interest or value as part of the developmental heritage of the city of Dover, the State of Ohio or the Nation; or
2. The structure is the site of an event significant in history; or
3. The structure is associated with a person who contributed significantly to the culture and development of the city of Dover, the State of Ohio or the Nation; or
4. The structure exemplifies the cultural, political, economic, social, ethnic, or historic heritage of the city of Dover, State of Ohio or the Nation; or
5. The structure presents distinguishing characteristics of a type, style, period or specimen in architecture or engineering; or
6. The structure is the work of a designer whose work has influenced significantly the development of the city of Dover, State of Ohio or the Nation; or
7. The structure contains elements of design, detail, materials, or craftsmanship which represent a significant innovation.

C. The Board shall prescribe the form of the application and establish a procedure for the consideration of the structure.

D. The designation of a "Historically Significant Structure" may be rescinded as follows:

1. Significant alteration of the structure which alteration is not in compliance with this chapter or any of the guidelines adopted to carry out the purposes of this chapter;
2. Upon written request of a property owner;
3. If a "Historically Significant Structure" Designation is rescinded, the city shall be permitted to recover from the owner the value of any financial incentives provided to the owner or prior owners by the City because of the initial designation, including any continuing reductions in real estate taxes that may have resulted from the designation. Rescission of the "Historically Significant Structure" designation shall not effect the application of any provisions of this chapter related to structures in historic districts or corridors, which may apply because of the location of the property.

VI

DESIGNATION OF CORRIDOR DISTRICTS

A. The appearance of structures along major vehicular entryways to the City of Dover reflect the cultural and esthetic character of the city, it contributes to the value of real property, and it affects the development of the local economy.

B. A Corridor District may be designated by Council to include real property contiguous to and located within 200 feet of a through street, and which is either zoned for commercial use or which is used for commercial purposes by variance or other lawful condition.

C. The following are designated as Corridor Districts within the City of Dover:

1. Wooster Avenue from the northern city corporation limit to the entrance to the City Park
2. State Route 39 and concurrent portions of State Route 211 from the western corporation limits to the intersection of Tuscarawas Avenue and Slingluff Avenue.
3. State Route 39 from the corporation limit to the intersection with West Third Street, continuing along West Third Street to Tuscarawas Avenue.
4. Ohio Avenue from the western corporation limit to North Wooster Avenue.

D. A designated Corridor District shall not extend into areas that may be annexed to the City unless such annexed area is specifically included in a Corridor by ordinance enacted at the time or after the annexation.

E. Where a Corridor District extends into a designated Historic District, provisions of this Chapter and any design standards established by authority of this Chapter as relate to Historic Districts shall supersede any such provisions as may apply to Corridor Districts.

VII

BUILDING PERMITS

To the extent required by Chapter 1125, no alteration, construction, reconstruction, or demolition of any structure shall be conducted within a Historic Districts, in a Corridor District, or on a designated historically significant structure, without the issuance of a building permit. No building permit shall be issued for alteration, construction, reconstruction or demolition which, pursuant to this Chapter, requires issuance of a Certificate of Appropriateness unless such certificate or waiver is issued by the Board.

VIII

CERTIFICATE OF APPROPRIATENESS

A. No person shall alter, construct, reconstruct, move or demolish a structure within a Historic District, a Corridor District, or to a designated historically significant structure without review by the Board and the issuance of a Certificate of Appropriateness.

B. Application for a Certificate of Appropriateness shall be in a form specified by the Board, demonstrating compliance with the provisions of this Chapter and any duly enacted design standards.

C. The Board shall consider the application at a public meeting scheduled within thirty days from the date of the application. Written notice of the consideration of the application shall be sent by regular mail to the applicant and members of the Board at least fifteen days prior to the consideration of the application. Such notice shall include the date, time, and location of the Board meeting. Consideration of the application may be continued for an additional period not to exceed thirty days upon request of the applicant or for other good cause.

D. Upon determination by the Board that the application meets the requirements of this Chapter and any duly established design standards, the Board shall issue a Certificate of Appropriateness. The Board may condition the Certificate upon future compliance with specific provisions of this Chapter or any established design standards. A copy of the Certificate and any conditions shall be provided to the applicant and the Building Inspector.

E. Copies of applications for Certificates of Appropriateness and the decisions of the Architectural Review Board on such applications and the minutes of meetings to consider applications shall be maintained as permanent records of the Board.

F. In addition to an applicant's right to appeal a denial of Certificate of Appropriateness or a waiver an applicant may resubmit an amended application for a Certificate of Appropriateness.

G. The Board may waive compliance with this Chapter upon a finding that a substantial hardship would be imposed on the property owner if the property owner is required to substantially comply with the requirements of this Chapter. The Board may issue a waiver conditioned upon the applicant's performance of reasonable conditions imposed by the Board to carry out the purposes of this Chapter as reasonably practicable.

IX

DEMOLITION AND MOVING OF BUILDINGS

A. Demolition of a building within a Historic District, or of a Historically Significant Structure, shall not be permitted unless one of the following conditions exist:

1. Demolition has been ordered by any governmental entity for the public health, safety or welfare; or
2. The property owner demonstrates that the structure is either not habitable or reasonably useable in its present condition and that maintaining or restoration of the property is a substantial hardship; or
3. The property owner demonstrates that prohibiting demolition is inconsistent with the purposes of this Chapter; or
4. That after any delay determined by the Board from the date of the application, the property owner has not been able to sell the building or restore or preserve the building due to substantial hardship.

B. No building within a Historic District or a Historically Significant Structure may be moved from its location unless the Architectural Review Board determines that the moving of the property will not detrimentally affect the character of the Historic District in which it is located.

C. The Board may delay any consideration on a request to demolish a building for a period not to exceed ninety days to encourage the applicant to take reasonable steps to obtain financing to restore or preserve the building or to sell the building.

X

FAILURE TO MAINTAIN

No person who is the owner of a building within a Historic District, a Corridor District, or the owner of a designated Historically Significant Structure shall fail to provide maintenance and upkeep of structures appropriate to prevent destruction by deterioration as a result of natural causes or other casualties.

XI

APPEAL

A decision of the Board resulting in a denial of a Certificate of Appropriateness or denial of a waiver of compliance of this Chapter may be appealed to the Zoning Board of Appeals in the same manner as an appeal from the denial of a building permit.

In considering the appeal of the action of the Architectural Review Board, the Board of Zoning Appeals may take any of the following actions:

1. Affirm the denial of the Certificate of Appropriateness or waiver; or
2. Remand the application to the Architectural Review Board for further consideration of any issues raised for the first time on appeal or any other issue for which further consideration by the Architectural Review Board may be appropriate; or
3. Reverse the decision of the Architectural Review Board, which reversal shall result in the granting of the Certificate of Appropriateness or waiver; or
4. Issue a Certificate of Appropriateness or waiver with certain conditions to be carried out the property owner.

The Zoning Board of Appeals may reverse the decision of the Architectural Review Board or issue a Certificate of Appropriateness with conditions only where such action carries out the purposes of this Chapter.

XII

ENFORCEMENT, PENALTIES

- A. Upon request of the Board the Law Director shall take appropriate action to enforce the provisions of this Chapter.
- B. Whoever alters, reconstructs or demolishes a structure without obtaining a Certificate of Appropriateness or a waiver as may be required by this Chapter, shall be guilty of a misdemeanor subject to incarceration for a period of up to thirty days, a fine of \$1,000.00, or both. In addition, the City of Dover may recover its costs incurred in the prosecution of a violation of this Chapter and any costs incurred in any civil action filed with a court of competent jurisdiction to enforce the provisions of this Chapter.

XIII.

That this ORDINANCE is hereby declared to be an emergency measure necessary for the preservation of public peace, health, and safety for the City of Dover and its inhabitants, and provided it receives the affirmative vote of two-thirds (2/3) of the Members appointed or elected to Council, it shall take effect and be in force immediately upon its passage and approval; otherwise, it shall take effect and be in force from and after the earliest period allowed by law. This Ordinance is needed on an emergency basis to create the framework necessary to permit development and planning for development to occur in the City of Dover in conformity with the standards set by this ordinance and the Architectural Review Board.

PASSED this _____ day of _____, 2009.

TIMOTHY TARULLI
President of Council

ATTEST:

JULIE LEGGETT
Clerk of Council

Approved this _____ day of _____, 2009.

RICHARD P. HOMRIGHAUSEN
Mayor

PUBLISH SUMMARY TWICE
Recommended by the Planning and Zoning Committee