

ARTICLE X: ADMINISTRATION OF THE HISTORIC PRESERVATION DISTRICT

SECTION 1000. PURPOSE

The City of Martinsburg, having been designated as a Historic Resource District by the National Register, Department of Interior and certain area and structures within the City have been listed on the National Register of Historic Places, this Article outlines the procedure for establishment of a historical district or districts. The establishment of a historical district is intended to promote the educational, cultural, economic and general welfare of the public through the preservation of buildings, sites, monuments, structures, and areas of historic or architectural interest or importance; through their protection, maintenance, and development as historic landmarks and their recognition as such in the history of the city, state, and nation; to establish and improve property values; and to strengthen the local economy.

SECTION 1001. ESTABLISHMENT OF A HISTORIC DISTRICT

1001. Appointment of Historic Review Commission: Prior to the establishment of a Historic District, the City Council shall appoint a Historic Review Commission. The Commission shall consist of nine (9) members who shall be residents of Berkeley County. They shall be chosen, as far as possible, from the membership of the Berkeley County Historical Society, Martinsburg Historic Landmarks Commission, and other cultural, educational, business, and civic groups concerned with the preservation of the City's character. The Historic Preservation Review Commission shall administer the historic preservation district or districts.

1001.2 Proposed Historic District: The Review Commission shall investigate the area proposed to be included in a Historic District or Districts, gathering such information as can be obtained in a reasonable period. The study shall include consideration of the historical or architectural importance of buildings or sites in the area, the present use and condition of buildings and land, and the relation of the proposed historic district to surrounding areas. The Review Commission shall, after investigation, prepare and submit a report to the City Council on the historical significance of the buildings, structures, sites, monuments, areas, and landmarks to be included in the proposed historic district and shall outline the boundaries of the proposed historic district on a map.

1001.3 Preliminary City Council Review: The City Council shall review the report of the Historic Preservation Review Commission, considering any review comments, and shall indicate tentative approval of the report and the proposed historic preservation district, or shall return the report for additional study and revision.

1001.4 Application for a Zoning Map Amendment: Following tentative approval of the historic district area by the City Council, the Review Commission shall make application for a zoning map amendment for a historic preservation district classification for the proposed historic area, following the procedures outlined in [Article XI](#) of this Ordinance. If more than one historic preservation district is proposed, a separate application shall be prepared for each district.

1001.5 Hearing Procedure: The Planning Commission shall hold a public hearing on the proposed Historic Preservation District map amendment application, following the procedure outlined in [Article IX](#). An adequate number of notices of the hearing (at least one per block) shall be posted within the area of the proposed historic district to inform the public, but it shall not be necessary to post a notice on every property. After the hearing, the Planning Commission shall send its report to the City Council for consideration.

1002. HISTORIC PRESERVATION REVIEW COMMISSION

If the City Council approves the creation of the Historic Preservation District, the boundaries of the district shall be indicated on the Official Zoning Map in accordance with the procedure outlined in [Section 301](#) of this Ordinance.

1002.1 Terms and Vacancies: Upon the creation of the Historic Preservation Review Commission, the members shall be appointed for the following terms: three for a term on one year; three for a term of two years, three for a term of three years. The terms shall expire on the first day of January of the first, second, or third year, respectively, following their appointment. Thereafter, as their terms expire, each new appointment shall be for a term of three years. If a vacancy occurs, by resignation or otherwise, among the members of the Commission, the City Council shall appoint a member for the unexpired term.

1002.2 Organization and Administration: At the first meeting of each year, the Historic Preservation Review Commission shall elect a chairman and vice chairman from its members. The vice chairman shall have authority to act as chairman during the absence or disability of the chairman. A majority of members of the Historic Preservation Review Commission shall constitute a quorum. No action of the Commission is official, however, unless authorized by a majority of the Commission. The Historic Preservation Review Commission may appoint and fix the compensation of a secretary and such employees and technical consultants as are necessary for the discharge of its duties, subject to appropriations by the City Council. The Historic Preservation Review Commission may accept donations, gifts, and grants to further the purpose for which it is created. The City Council shall provide the Commission with suitable offices for holding of meetings and the preservation of plans, maps, documents and accounts, and shall provide by appropriation a sum sufficient to defray the reasonable expenses of the Commission. The Commission shall submit an annual report of its activities to the City Council.

1002.3 Proceedings of the Historic Preservation Review Commission: The Historic Preservation Review Commission shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this Ordinance. Meetings shall be held at the call of the chairman and at such other times as the Commission may determine. All meetings shall be open to the public. The Commission shall keep minutes of its proceedings, examinations, and other official actions and shall record the vote of all actions taken. All minutes and records shall be filed in the office of the Commission and shall be a public record.

1002.4 Expanded or New Historic Districts: The Historic Preservation Review Commission may, after its formation, propose the expansion of a historic preservation district or formation of new and separate historic preservation districts. The procedure for expanding or establishing a new historic district shall be the same as outlined in [Section 1001](#).

SECTION 1003. PLAN REVIEW REQUIREMENTS

The Historic Preservation Review Commission shall review all plans for the construction, alteration, repair, and designs including painting, moving, or demolition of structures in the historic preservation district. No building or structure exposed to public view including fences, boundary walls, signs, light fixtures, steps and paving or other appurtenant fixtures, public or private, shall be erected, altered, restored, moved, or demolished within a historic preservation district until after an application for a Certificate of Appropriateness as to exterior architectural features has been submitted to and approved by the Commission. For the purposes of this Ordinance, ~~%~~ exterior architectural features+ shall include the color, architectural style, general design, and general arrangement of the exterior of a structure, including the kind of texture of the building materials, and type and style of all windows, doors, light fixtures, signs, and other appurtenant fixtures. The style, material, size and location of all signs within a historic preservation district shall also be under the control of the Historic Review Commission. All work shall be designed to be compatible and harmonious and consistent with original scale, style and character of the structure.

The Commission shall not consider interior arrangement or use, but shall consider the relationship of the exterior of the building or structure concerned with all others in the historic preservation district, so as to avoid incongruity and to preserve the overall character of the area. New buildings need not necessarily be in any one historical style, as long as the scale and design of the building, and the materials used, are in harmony with the overall character of the historic area.

SECTION 1004. PROCEDURE FOR PLAN REVIEW

1004.1 Application for Building Permit: Application for a Building Permit to construct, alter, repair, design, move, or demolish any structure in a historic preservation district shall be made to the Building Inspector. Plans shall be submitted showing the structure in question and also showing its relation to adjacent structures. The Historic Preservation Review Commission may prepare forms for use of the Building Inspector that will include provisions for the information needed by the Commission.

Upon the filing of such application, the Building Inspector shall immediately notify the Historic Preservation Review Commission of the receipt of such application and shall transmit it, together with accompanying plans and other information to the Commission. In the event the application is for demolition of a structure or erection of a new structure, the Building Inspector shall establish a public hearing date to be held by the Review Commission and conduct said hearing according to procedures as outlined in [Section 902](#) of this Ordinance.

1004.2 Review: The Historic Preservation Review Commission shall consider the application.

Within not more than forty-five (45) days after the filing of an application, the Commission shall pass upon it, and shall give written notice of its decision to the applicant. If the application is approved, the Commission shall issue a Certificate of Appropriateness to the applicant for a Building Permit. The certificate should be signed by the Chairman, and transmitted to the Building Inspector. The Commission shall keep a record of all Certificate of Appropriateness that have been issued.

No Building Permit shall be issued by the Building Inspector for work in a historic preservation district without a Certificate of Appropriateness from the Historic Preservation Review Commission.

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

The Failure of the Historic Review Commission to approve or disapprove an application within forty-five (45) days from the date of application for the Building Permit, unless otherwise mutually agreed upon by the applicant and Commission, shall be deemed to constitute approval and the Building Inspector shall proceed to process the application without regard to a Certificate of Appropriateness.

After the Certificate of Appropriateness has been issued and the Building Permit granted to the applicant, the Building Inspector shall from time to time inspect the construction, alteration, or repair approved by such certificate and shall take such action as is necessary to ensure compliance with the approved plans.

SECTION 1005. HP HISTORIC PRESERVATION DISTRICT

- A. The exterior of the premises and the condition of accessory structures shall be maintained so that the appearance of the premises and the structures thereon shall reflect a reasonable level of maintenance. The exterior of every structure or accessory structure (including fences, signs, and storefronts) shall be maintained in good repair and all surfaces thereof shall be kept painted or white washed where necessary for the purpose of preservation and appearances. All surfaces shall be maintained free of broken glass, loose shingles, crumbling masonry, excessive peeling paint or other conditions reflective of deterioration or inadequate maintenance to the end that the property itself may be preserved and safe and fire hazards eliminated.
- B. All windows exposed to the public view shall be kept clean and free of marks of foreign substance except when necessary in the course of changing displays. No storage materials, stock, or inventory other than items for display shall be permitted in window display areas ordinarily exposed to public view unless said areas are first screened from public view by drapes, Venetian blinds or other permanent rendering of the windows opaque to the public view. All screening of interiors shall be maintained in clean materials and in good state of repair. This applies to both occupied and unoccupied structures.
- C. All permanent signs and billboards exposed to public view permitted by reason of other regulations or as a lawful nonconforming use shall be maintained in good repair. Any signs that have excessively weathered or faded or those upon which the paint has excessively peeled or cracked shall with their supporting members, be removed forthwith, or put into a good state of repair. All nonoperative or broken electrical signs shall be repaired or shall, with their supporting members, be removed forthwith.
- D. Any awning or marquee and its accompanying structural members that extend over any street, sidewalk, or any other portion of the premises shall be maintained in good repair and shall not constitute a nuisance or a safety hazard. In the event such awnings or marquees are not properly maintained in accordance with the foregoing, they shall, together with their supporting members, be removed forthwith. In the event said awnings or marquees are made of cloth, plastic or of similar material, said cloth or plastic where exposed to public view shall not show evidence of excessive weathering, discoloration, ripping, tearings, or other holes. Nothing herein shall be construed to authorize any encroachment

on sidewalks, or other parts of the public domain, except as permitted under other statutes, Ordinance, or regulations.

- E. Solid or permanently enclosed or covered storefronts shall not be permitted, unless treated as an integral part of the building façade using wall materials and window detailing compatible with the upper floors. All damaged, sagging, or otherwise deteriorated storefronts, show windows, or entrances shall be repaired or replaced.
- F. Rear and side walls shall be repaired and painted to present a neat and fresh appearance. Rear walls should be painted to cover evenly all miscellaneous patched and filled areas or be stuccoed to present an even and uniform surface. Side walls in public view shall be finished so as to be harmonious with the front of the building.
- G. Chimneys, elevator penthouses, or any other auxiliary structures on the roofs shall be repaired and cleaned as required for rear and side walls. Any construction visible from the street or from other buildings shall be finished so as to be harmonious with other visible building walls.

1005.1 Compliance: All persons, corporations, partnerships, owners, lessees, or lessors which own, lease, or occupy real estate and improvements located or constructed upon real estate located within the Geographical Boundaries governed by Article 10 of the City of Martinsburg Zoning Ordinance, known as ~~%~~Administration of the Historic Preservation Districts:+ shall comply with the provisions, articles, sections, and requirements of said Article 10 as it requires affirmative action to be taken by said persons, corporations, partnerships, owners, lessees, or lessors, within three years of its date of passage into law, that is, by April 8, 1985, subject to the following exception: All sections of Article 10 of the Martinsburg Zoning Ordinance dealing with administrative procedures of any governmental bodies, including the Historic Preservation Review Commission, and including any building or repair applications required to be made to or approved by governmental bodies, including the Historic Preservation Review Commission, shall be in effect immediately upon date of passage of this Ordinance, that is, as of April 8, 1982.

SECTION 1006. VARIANCES

Due to peculiar conditions of design and construction in historic neighborhoods where structures were often built close to the lot lines, it may be the public interest to retain a neighborhood's historic appearance by making Variances to normal yard requirements. Where, by reason of topographical conditions, irregularly shaped lots, or because of unusual circumstances applicable solely to the particular applicant, strict enforcement of the provisions of this Ordinance would result in serious undue hardship, the Historic Preservation Review Commission shall have the power to vary or modify strict adherence to this Ordinance; provided always that its requirements ensure harmony with the

general purposes of the Ordinance, and will not seriously effect neighboring properties or the historic preservation district as a whole.

SECTION 1007. EXCEPTIONS

Nothing in this Article shall be construed to prevent ordinary maintenance or repairs which do not involve a change of design, materials, or outward appearance of a building or structure in a historical preservation district; nor to prevent the construction, reconstruction, alteration, or demolition of any such feature that is required by the public safety because of an unsafe or dangerous condition. The requirements of this article do not apply to work which was begun or for which a permit was issued prior to the establishment of the historic preservation district.

SECTION 1008. ENFORCEMENT

The City of Martinsburg is authorized and empowered to enforce Article 10 of the City of Martinsburg, in addition to prosecution under terms of the City Code, by applying for injunctive relief or for a writ of mandamus in the Circuit Court of Berkeley County, West Virginia.

Violation of any provision of [Article X](#) of the City of Martinsburg Zoning Ordinance shall be a misdemeanor, punishable by a fine of \$300.00 for each separate offense. Each separate day a violation of Article 10 occurs shall be considered a separate offense.


SECTION 1009. APPEALS

Appeal of the actions and decision of the Historic Preservation Review Commission shall be made directly to the Martinsburg City Council, which shall have the authority to review, amend, affirm, reject or deny the actions and decisions of the Historic Preservation Review Commission. The decision of City Council shall be made in writing within thirty (30) days of hearing of the appeal. Decisions of the City Council may be appealed to the Circuit Court of Berkeley County, West Virginia.

Introduced: March 24, 1982

Adopted: April 8, 1982

Mayor


CITY RECORDER

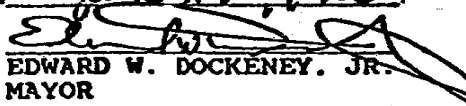
AN ORDINANCE TO PROVIDE FOR THE DELAY OF 30 DAYS FOR THE ISSUANCE OF A DEMOLITION PERMIT FOLLOWING A DECISION OF THE HISTORIC REVIEW COMMISSION OR THE CITY COUNCIL PERMITTING THE DEMOLITION OF PROPERTY WITHIN THE HISTORIC PRESERVATION DISTRICT

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MARTINSBURG:

Appeal of the actions and decisions of the Historic Preservation Review Commission shall be made directly to the Martinsburg City Council, which shall have the authority to review, amend, affirm, reject, or deny the actions and decisions of the Historic Preservation Review Commission.

If the City Council reverses the Historic Preservation Review Commission's decision to deny issuance of a Certificate of Appropriateness for the demolition of a building or structure, within the historic preservation district, no permit for demolition shall be issued by the Building Inspector for a period of thirty (30) days following Council's decision.

The decision of the City Council shall be made in writing within thirty (30) days of hearing of the appeal. Decisions of the City Council may be appealed to the Circuit Court of Berkeley County, West Virginia.

THIS ORDINANCE SHALL TAKE EFFECT ON June 29th, 1988

EDWARD W. DOCKENEV, JR.
MAYOR

INTRODUCED: April 14, 1988
ADOPTED: June 29th, 1988

ATTEST:
Sharon A. Flick
SHARON A. FLICK
CITY RECORDER

Michael Lewis
George Karol
Elizabeth B. Gunnar
Joan J. Roach
Kenneth Stephens Jr.
Clarence R. Miller

Julian R. Fulk
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