

ORDINANCE NO. 30 -1006

AN ORDINANCE TO REPEAL AND REPLACE APPENDIX A, ZONING, ARTICLE XXI-A ENTITLED VILLAGE HISTORIC DISTRICT.

THE CITY OF WARREN ORDAINS:

SECTION 1. That Appendix A, Zoning, Article XXI-A of the Code of Ordinances entitled Village Historic District Zoning shall be repealed and replaced. Appendix A, Zoning, Article XXI-A **WHICH PRESENTLY READS AS FOLLOWS:**

Section 21A.01 Definitions.

1. *Historic District* - means the area described in Section 2 of this Ordinance.
2. *Historical preservation* - means the protection, rehabilitation, restoration or reconstruction of districts, archaeological and other sites, buildings, structures and objects.
3. *Historic structure* - shall mean any site, building structure and object significant in history, architecture, archaeology, and culture and so designated by the Historic District Commission.
4. *Commission* - shall mean the Historic District Commission as established by Section 3 of this Ordinance.

Section 21A.02 Area.

The Village Historic District is to consist of the area contained in the map attached hereto, and boundaries clearly identified as follows:

THE VILLAGE OF WARREN

The following is a description of the Village of Warren to be included in an ordinance which governs the Historical aspects of said village.

Beginning at the intersection of the north side right-of-way line of Chicago Road and the southeast corner of lot 15 of Block 7 of Assessor's Addition to Village of Warren; thence westerly along the north right-of-way line of Chicago Road to the southwest corner of lot 1 of replat John Warner Subdivision; thence in a southwesterly direction to the northeast corner of lot 7 of Block 3 of Hoard's and Martin's Plat of the Village of Warren; thence south along the east property line of said lot to the southeast corner; thence westerly along the south property lines of lots 1 thru 7 of Block 3 of Hoard's and Martin's Plat of

the Village of Warren to the southwest corner of lot 1 of said plat; thence continuing westerly across Flynn Street and along the south property lines of lots 2 thru 7 of Block 4 of Hoard's and Martin's Plat of the Village of Warren to the intersection of the southwest corner of lot 2 of said plat and the east right-of-way of Mound Road; thence northerly to a point on the west property line of and 33.42 ft. north of the southwest corner of lot 1 of Block 4 of Assessor's Addition to the Village of Warren; thence in a westerly direction to the southeast corner of lot 2 of Block 3 of Assessor's Addition to the Village of Warren; thence along the south property line (Beebe Ave.) of lot 2 of said plat to a point on the east property line of and 30 ft. north of the southeast corner of lot 13 of Block 2 of the Assessor's Addition to the Village of Warren; thence west to a point on the west property line of and 30 ft. north of the southwest corner of lot 13 of Block 2 of said plat; thence north along the west property lines of lots 13 thru 18 of Block 2 of Assessor's Plat of the Village of Warren to a point on the west property line of and 116.34 ft. north of the southwest corner of lot 8 of said plat and the southeast corner of P.I.N. No. 13-05-429-023; thence westerly along the south property lines of P.I.N. No's. 13-05-429-022 and 023, 159.48 ft. to the southwest corner of P.I.N. No. 13-05-429-022 and a point on the east property line of and 149.04 ft. south of the south side right of way of Chicago Road and northeast corner of P.I.N. No. 13-05-428-009; thence south 115 ft. to the southeast corner of P.I.N. 13-05-428-009; thence westerly 105.25 ft. to the southwest corner of said P.I.N. No.; thence northerly to a point on the west property one of and 40 ft. north of the southwest corner of said P.I.N. No. and the southeast corner of P.I.N. No.13-05-428-001; thence west along the south property line of said P.I.N. No. 135.74 ft. to the center of Lexington Heights Street; thence northerly to a point on the north right of way line of Chicago Road and the southwest corner of P.I.N. No. 13-05-433-001 thru 006 Village West M CCP Condominiums; thence northerly along the west property line of said condominiums to a point on the south side of the Red Run Drain; thence easterly along the south side of the Red Run Drain traversing across Mound Road and continuing to a point being the northeast corner of P.I.N. No. 13-04-329-001; thence south along the east property line of said P.I.N. No. 405 ft. to the northeast corner of lot 15 of Block 7 of Assessor's Addition of the Village of Warren; thence easterly along the north property line of said lot 67.70 ft.; thence southerly along the east property line of said lot to the point of beginning on the north side right of way of Chicago Road.

Also non-contiguous parcels identified as follow:

1. Eckstein Park consisting of P.I.N. No's. 13-04326-001 thru 003.
2. Warren Union Cemetery consisting of P.I.N. No. 13-05-180-002.

Section 21A.03 Creation and composition of the village Historic District Commission.

A commission is hereby established to be composed of seven (7) members, who reside in the City of Warren and appointed by the Mayor. Members shall be appointed for 3-year terms, except the initial appointments of some of the members shall be for less than 3 years to the end that the initial appointments shall be staggered so that subsequent appointments shall not all recur at the same time; therefore, the initial members shall be appointed as follows: Two (2) for one (1) year; two (2) for two (2) years and three (3) for three (3) years. Members shall be eligible for reappointment. In the event of a vacancy on the commission, interim appointments may be made by the appointing authority to complete the unexpired term of such position. The Mayor of Warren shall appoint at least two (2) members from a list of citizens submitted by a duly organized and existing preservation society or societies, and one (1) architect, duly registered in this state, if an architect resides in the City of Warren and is available for appointment. The provisions of this Ordinance shall not be applicable to historical commissions established by ordinance before the effective date of this ordinance. The commission shall have no less than three (3) members who are property owners within the Historic District.

Section 21A.04 Permits affecting construction, alteration, repair moving, demolition affecting exterior appearance of historical structure.

Application for permission; referral to commission.

1. Before construction, alteration, repair, moving or demolition affecting the exterior appearance of an Historic structure, is made within such a district and which by present or future ordinance requires the taking out of a permit within such a district, the person, individual, firm or corporation proposing to make such construction or changes shall file an application for permission. The application shall be referred together with plans pertaining thereto to the Historic District Commission and the commission shall review such plans and applications and no permit shall be granted until the commission has acted thereon as hereinafter provided. Further, those permits requiring site plan approval by the Planning Commission will not be issued until said body has incorporated the Historic District Commission permission in its site plan approval.
2. In reviewing plans, the commission shall give consideration to: a) the historical or architectural value and significance of the structure and its relationship to the historical value of the surrounding area; b) the relationship of the exterior architectural features of such structure to the rest of the structure and to the surrounding area; c) the general compatibility of exterior design, arrangement, texture, and materials proposed to be used; d) any other factor, including aesthetic, which it deems to be pertinent.

3. The commission shall pass only on exterior features of a structure and shall not consider interior arrangements. Nor shall it disapprove applications except in regard to the consideration as set forth in the previous paragraph.

Plan for preservation of structure.

4. In case of an application for repair or alteration affecting the exterior appearance of a structure or for the moving or demolition of a structure which the commission deems so valuable to the local unit, state or nation, that the loss thereof will adversely affect the public purpose of the local unit, state or nation, the commission shall endeavor to work out with the owner an economically feasible plan for preservation of the community.

Grounds for approving application.

5. An application for repair or alteration affecting the exterior appearance of an historic structure, or for its moving or demolition, shall be approved by the commission if any of the following conditions prevail, and if in the opinion of the commission the proposed changes will materially improve or correct these conditions; a) the structure constitutes a hazard to the safety of the public or the occupants; b) the structure is a deterrent to a major improvement program which will be of substantial benefit to the community; c) retention of the structure would cause undue financial hardship to the owner; or d) retention of the structure would not be in the interest of the majority of the community.

Meetings of commission, record.

6. All meetings of the commission shall be open to the public and any person or representative of his choice shall be entitled to appear and be heard on any matter before the commission before it reaches its decision. The commission shall keep a record, which shall be open to public view of its resolutions, proceedings, and actions.

Section 21A.05 Acceptance of grants or gifts, agent for acceptance and administration.

The Warren City Council may accept grants from the state or federal governments for historical restoration purposes. It may make the historic commission its duly appointed agent to accept and administer grants and gifts for historical preservation purposes.

Section 21A.06 Acquisition of historic structure by local legislative body, funds, recommendation of commission, maintenance.

If all efforts by the Historic District Commission to preserve an historic structure fail, or if it is determined that public ownership is most suitable, the local legislative body, if deemed to be in the public interest, may acquire such property using public funds, gifts for historical purposes, grants from the state or federal governments for acquisitions of historic properties, or proceeds from revenue bonds issued for historical preservation purposes. Such acquisitions shall be based on the recommendation of the Historic District Commission. The Historic District Commission has the responsibility for the maintenance of publicly owned historic structures using its own funds, if not specifically earmarked for other purposes, or those public funds committed for this use by the local legislative body.

Section 21A.07 Coordination between county and municipal commissions.

Coordination between the county commission and municipality's commission shall be maintained. The overall historical preservation plan of Warren shall be submitted to the county commission or review, and county plans submitted to Warren's Historic District Commission. Day-to-day activities of local commissions concerning alteration and restoration decisions need not be submitted to the county but only those plans which have other than strictly local significance.

Section 21A.08 Certificate of approval or rejection of plans, filing for review; effect of rejection and of failure to act on application.

The commission shall file with the Building Division its certificate of approval or rejection of plans submitted to it for review. No work shall begin until the certificate is filed, but in the case of rejection, the certificate is binding on the Building Division or other duly delegated authority, and no permit shall be issued in such case. The failure of the commission to act within sixty (60) days after the date of the application filed with it, unless an extension is agreed upon mutually by the applicant and the commission, shall be deemed to constitute approval.

Section 21A.09 Ordinary maintenance and repair: construct, alteration, repair, moving or demolition under existing permit.

Nothing in this act shall be construed to prevent ordinary maintenance or repair of any structure within the historic district; nor to prevent construction, alteration, repair, moving or demolition of any structure under a permit issued by the Building Division prior to the passage of the ordinance.

Section 21A.10 Commission rules and procedures.

The commission shall at its initial meeting adopt:

- 1. Rules of the commission, and;
- 2. Rules for procedure governing review before the commission. Further said rules shall be published and available for review by the public and/or parties, appearing before said Historic District Commission.

Section 21A.11 Appeals.

Any persons jointly or severally aggrieved by a decision of the Historic District Commission have the same rights of appeal concerning the decision as are granted to an applicant aggrieved by a decision of a Zoning Board of Appeals.

Section 21A.12 Prior legislation: historical commissions appointed by local governing bodies, effect, designation as Historic District Commission.

This ordinance does not affect any previously enacted legislation pertaining to historical preservation or to historical commissions appointed to foster historic preservation.

IS HEREBY AMEDED TO READ AS FOLLOWS:

ARTICLE XXI-A. VILLAGE HISTORIC DISTRICT

DIVISION 1. GENERALLY

Sec. 21A.01. Background and purpose.

The ordinance is intended to protect the Village Historic District, because of its distinctive character and rich historical heritage; and to encourage interest in the City of Warren’s historic past. Historic preservation is a public purpose. This article is established pursuant to the Michigan Local Historic Districts Act, P.A. 169 of 1970, as amended by MCL 399.201 *et. seq.* Pursuant to this ordinance and the applicable provisions of the Michigan Local Historic Districts Act, the City of Warren (City) shall regulate the construction, addition, alteration, repair, moving, excavation, and demolition of resources in the Village Historic District. This ordinance is also intended to:

- (a) Promote the economic and general welfare of our residents by fostering civic beauty through the encouragement of appropriate historic settings and conservation of desirable historical character.

- (b) Encourage educational, recreational, and cultural activities within our municipality which advance the principles and goals of historic preservation and community development, as embodied in the Master Plan.
- (c) Safeguard the heritage of the City by preserving the Village Historic District's history, architecture, archaeology, engineering and culture.
- (d) Stabilize and improve property values in the Village Historic District and the surrounding areas.
- (e) Strengthen the local economy.
- (f) Promote the use of the Village Historic District for the education, pleasure, and welfare of the citizens of the City and the State.

Sec. 21A.02. District Boundaries.

- (a) The City Council may, at any time, modify boundaries of the Village Historic District, or eliminate the Village Historic District.
- (b) The Village Historic District is established. The Village Historic District boundaries are described as follows:

THE VILLAGE OF WARREN

THE VILLAGE OF WARREN

Beginning at the intersection of the north side right-of-way line of Chicago Road and the southeast corner of lot 15 of Block 7 of Assessor's Addition to City of Warren; thence westerly along the north right-of-way line of Chicago Road to the southwest corner of lot 1 of re-plat John Warner Subdivision; thence in a southwesterly direction to the northeast corner of lot 7 of Block 3 of Hoard's and Martin's Plat of the City of Warren; thence south along the east property line of said lot to the southeast corner; thence westerly along the south property lines of lots 1 thru 7 of Block 3 of Hoard's and Martin's Plat of the City of Warren to the southwest corner of lot 1 of said plat; thence continuing westerly across Flynn Street and along the south property lines of lots 2 thru 7 of Block 4 of Hoard's and Martin's Plat of the City of Warren to the intersection of the southwest corner of lot 2 of said plat and the east right-of-way of Mound Road; thence northerly to a point on the west property line of and 33.42 ft. north of the southwest corner of lot 1 of Block 4 of Assessor's Addition to the City of Warren; thence in a westerly direction to the southeast corner of lot 2 of Block 3 of Assessor's Addition to the City of Warren; thence along the south property line (Beebe Ave) of lot 2 of said plat to a point on the east property line of and 30 ft. north of the southeast corner of lot 13 of Block 2 of the Assessor's Addition to the City of Warren; thence west to a point on the west property line of and 30 ft. north of the southwest corner of lot 13 of Block 2 of said plat; thence north along the west property lines of lots 13 thru 18 of Block 2 of Assessor's Plat of the City of Warren to a point on the west property line of and 116.34 ft. north of the southwest corner of lot 8 of said plat and the southeast corner of P.I.N. 13-05-429-023; thence westerly along the

south property lines of P.I.N. 13-05-429-022 and 13-05-429-023, 159.48 ft. to the southwest corner of P.I.N. 13-05-429-022 and a point on the east property line of and 149.04 ft. south of the south side right-of-way of Chicago Road and northeast corner of P.I.N. 13-05-428-009; thence south 115 ft. to the southeast corner of P.I.N. 13-05-428-009; thence westerly 105.25 ft. to the southwest corner of said P.I.N.; thence northerly to a point on the west property line of and 40 ft. north of the southwest corner of said P.I.N. and the southeast corner of P.I.N. 13-05-428-001; thence west along the south property line of said P.I.N. 135.74 ft. to the center of Lexington Heights Street; thence northerly to a point on the north right-of-way line of Chicago Road and the southwest corner of P.I.N. 13-05-433-001 thru 13-05-433-006 Village West MCCP Condominiums; thence northerly along the west property line of said condominiums to a point on the south side of the Red Run Drain; thence easterly along the south side of the Red Run Drain traversing across Mound Road and continuing to a point being the northeast corner of P.I.N. 13-04-329-001; thence south along the east property line of said P.I.N. 405 ft. to the northeast corner of lot 15 of Block 7 of Assessor's Addition of the City of Warren; thence easterly along the north property line of said lot 67.70 ft.; thence southerly along the east property line of said lot to the point of beginning on the north side right-of-way of Chicago Road.

Also non-contiguous parcels identified as follows: Eckstein Park consisting of P.I.N. 13-04-326-001 through 13-04-326-003; and Warren Union Cemetery consisting of P.I.N. 13-05-180-002.

Sec. 21A.03. Definitions.

For the purpose of this Article, the following terms, and phrases shall mean:

Alteration means work that changes the detail of a resource but does not change its basic size or shape.

Applicant means any person, individual, partnership, firm, corporation, organization, institution, or agency of government that wishes to perform work that requires a permit on a resource in the Village Historic District.

Certificate of Appropriateness means the written approval of a permit application for work that is appropriate and that does not adversely affect a resource.

Commission means the City's Village Historic District Commission.

Demolition means the entire or partial razing or destruction of a resource including, but not limited to, demolition by neglect.

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.

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

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.

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.

Historic preservation means the identification, evaluation, establishment, and protection of resources that are significant in history, architecture, archeology, engineering, or culture.

Historic resource means a publicly or privately owned building, structure, site, object, feature, or open space that is significant in the history, architecture, archeology, engineering, or culture of this State or a community within this State or of the United States.

Notice to Proceed means the written permission for work that is inappropriate, and that adversely affects the resource.

Open space means undeveloped land, a naturally landscaped area, or a formal or manmade landscaped area that provides a connective link or a buffer between other resources.

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 purposes of this article.

Permit means approval to perform work, indicated either by a Certificate of Appropriateness, or a Notice to Proceed.

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

Resource means any publicly or privately owned historic or non-historic building, structure, site, object, feature, or open space located in the Village Historic District.

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 two (2) or more single-station alarms that are capable of interconnection such that actuation of one (1) alarm causes all integrated separate audible alarms to operate.

Work means construction, addition, alteration, repair, moving, excavation or demolition of a resource, excluding ordinary maintenance.

Sec. 21A.04 – 21A.06. Reserved.

DIVISION 2. MEMBERSHIP, POWERS, AND DUTIES

Sec. 21A.07. Established; membership; terms; vacancies.

- (a) *Established.* The Commission is hereby established.
- (b) *Membership and appointment.*
 - i. The Mayor shall appoint the voting members of the Commission.
 - ii. The Commission shall consist of seven (7) voting members.
 - iii. The Commissioners shall:
 - i. reside in the local unit as defined by MCL 399.201a;
 - ii. if available, include at least three (3) members who are property owners within the Village Historic District;
 - iii. include at least two (2) members from a list of citizens submitted by a duly organized local historic preservation organization;
 - iv. include a majority of members who have a clearly demonstrated interest in, or knowledge of historic preservation; and
 - v. if available, include a graduate of an accredited school of architecture who has two (2) years of architectural experience, or who is an architect registered in this State.
 - iv. The Mayor may also appoint one or more nonvoting delegates.
 - i. Nonvoting delegates shall have a clearly demonstrated interest in, or knowledge of historic preservation.
 - ii. The delegate shall not vote.
 - iii. The Mayor may remove nonvoting delegates at any time.
 - v. City Council may appoint a nonvoting ex-officio member.
- (c) *Terms.* A Commissioners’ term shall be three (3) years. The Commissioners currently serving on the Commission at the time of the adoption of this Article shall continue to serve on the Commission until their terms would have expired pursuant to the repealed enabling ordinance. Commissioners are eligible for re-appointment to succeeding terms.
- (d) *Vacancies.* In the event of a vacancy on the Commission, the Mayor shall make an interim appointment within sixty (60) calendar days of being notified of the

vacancy. The interim Commissioner shall complete the remainder of the outgoing Commissioner's term.

Sec. 21A.08. Powers and duties.

The Commission shall have the following powers and duties:

- (a) To adopt rules of procedure.
- (b) To review permit applications for work affecting resources.
- (c) To issue (1) a Certificate of Appropriateness, for appropriate proposed work; or (2) a Notice to Proceed or a denial of the application for proposed inappropriate work, on a resource that affects the exterior appearance, or the interior arrangements, as provided in MCL 399.205(1) and (4).
- (d) To issue a Notice to Proceed, or deny an application to demolish a resource.
- (e) To give advice and guidance regarding any proposed work on a resource.
- (f) To advise and assist property owners, City Departments, City Council, the Mayor, and the general public on physical and financial aspects, and benefits of historic preservation.
- (g) To recommend to the City Council the designation of additional historic districts from resources chosen according to the criteria listed in MCL 399.203 and MCL 399.214.
- (h) To accept and administer grants and gifts given to the Commission for the purpose of preserving the Village Historic District.
- (i) To enter into agreements and contracts for the purpose of assisting the Commission in carrying out its duties.
- (j) To write an annual report to the Mayor, at the end of the fiscal year, which reviews the budget and the Commission's work during the preceding year.
- (k) To conduct an ongoing survey, in accordance with the survey procedures established by the State Historic Preservation Office, in order to identify properties, structures, and areas that exemplify the cultural, social, spiritual, economic, political, educational, engineering, or architectural history of the City, State, or nation.
- (l) To keep a register of all designated historic resources within the Village Historic District, including all information required for each designation.
- (m) To determine an appropriate system of markers, and to confer recognition on the owners of historic resources, within the Village Historic District, by means of certificates, plaques, or markers.
- (n) To nominate Village Historic District historic resources to the State and National Register of Historic Places, and to review and comment on any nominations submitted to the Commission.
- (o) To disseminate information to the public concerning those resources deemed worthy of preservation, and to encourage the protection, enhancement, perpetuation and use of resources of historic and/or architectural interest.
- (p) To adopt design review standards and guidelines for resource treatment and seek approval of the standards and guidelines from the State Historic Preservation Office.

Sec. 21A.09 – 21A.11. Reserved.

DIVISION 3. PERMIT APPLICATION, REVIEW, AND APPEAL

Sec. 21A.12. Permit.

- (a) *Permit required.* An applicant shall obtain a permit from the Commission before performing any work on a resource that affects:
 - (1) the exterior appearance of the resource including, but not limited to: (1) work to the interior that causes visible change to the exterior, and (2) demolition; or
 - (2) the interior of the resource that City Council specifically authorizes the Village Historic District Commission to review.
- (b) *Permit not required.* A permit is not required for ordinary maintenance.

Sec. 21A.13. Application.

An applicant shall file a complete permit application with the Commission. The permit application shall include information that the Commission deems necessary to review the application under Section 21A.15 and 21A.16.

Sec. 21A.14. Filing fee.

- (a) At the time of making a permit application, an applicant shall pay a filing fee as set by resolution of the City Council. A permit application shall not be considered complete until the fee has been paid in full.

Sec. 21A.15. Review of application.

- (a) On receipt of a complete permit application, the Commission shall place the permit application on the agenda for the next scheduled meeting.
- (b) The Commission shall review the permit application for compliance with the standards and guidelines stated in this Article.
- (c) After reviewing the permit application, the Commission may issue:
 - (1) A Certificate of Appropriateness;
 - (2) A Notice to Proceed; or
 - (3) A denial of the permit.
- (d) A Certificate of Appropriateness or a Notice to Proceed authorizes the proposed work to proceed, subject to all other provisions of the Code of Ordinances.
- (e) The Commission's failure to act shall constitute an approval of the application, if:
 - (1) Sixty (60) calendar days have passed since the date the applicant filed a complete application; and
 - (2) The Commission and the applicant do not sign a written extension agreement.

21A.16. Commission action, and standards for review.

- (a) Certificate of Appropriateness.
- (1) The Commission shall only issue a Certificate of Appropriateness if the permit application provides:
 - i. for work that complies the United States Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, as set forth in 36 C.F.R. part 67, or design review standards and guidelines that address special design characteristics of historic districts, 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; and
 - ii. that the resource has, or will have, before the proposed project completion date, a fire alarm system or a smoke alarm complying with the requirements of the State Construction Code.
 - (2) In making a finding of whether to issue a Certificate of Appropriateness, the Commission shall also consider all of the following:
 - i. The historic or architectural value and significance of the resource and its relationship to the historic value of the surrounding area.
 - ii. The relationship of any architectural features of the resource to the rest of the resource and to the surrounding area.
 - iii. The general compatibility of the design, arrangement, texture, and materials proposed to be used.
 - iv. Other factors, such as aesthetic value, that the Commission finds relevant.
- (b) *Notice to Proceed.*
- (1) The Commission may issue a Notice to Proceed for work that does not meet the standards for a Certificate of Appropriateness, if the Commission finds any of the following conditions prevail, and that a Notice to Proceed is necessary to substantially improve or correct any of the following conditions:
 - i. The resource constitutes a hazard to the safety of the public or the structure's occupants.
 - ii. 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.
 - iii. 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 a historic district, have been attempted and exhausted by the owner. The applicant shall provide proof of financial hardship as required and defined by the Commission.

- iv. Retaining the resource is not in the interest of the majority of the community.
- (c) Denial of Permit Application.
 - (1) If the Commission finds that neither a Certificate of Appropriateness, nor a Notice to Proceed is proper, it shall deny the applicant's permit.
 - (2) If the Commission denies an applicant's permit, the applicant shall not perform the proposed work.
 - (3) If the Commission denies a permit, it shall provide to the applicant:
 - i. a written explanation of the reasons for denial;
 - ii. if applicable, a notice that an application may be resubmitted for Commission review when suggested changes have been made; and
 - iii. notification of the applicant's right of appeal to the State Historic Preservation Review Board and the Circuit Court.

Sec. 21A.17. Notification of action.

- (a) The Commission shall file Certificates of Appropriateness, Notices to Proceed, and denials of applications with the Division of Buildings Safety and Engineering and the Planning Department. The decision of the Commission shall be binding on all departments of the City.

Sec. 21A.18. Approval of minor classes of work.

- (a) The Commission may delegate the issuance of a Certificate of Appropriateness for designated minor classes of work to the Director of the Division of Buildings Safety and Engineering.
- (b) The Commission shall provide specific written standards to the Director of the Division of Buildings Safety and Engineering for issuing a Certificate of Appropriateness-Minor Class of Work.
- (c) The Director of the Division of Buildings Safety and Engineering shall forward all Certificates of Appropriateness-Minor Class of Work to the Commission for record keeping.
- (d) On at least a quarterly basis, the Commission shall review the Certificates of Appropriateness issued by the Director of the Division of Buildings Safety and Engineering to determine if the delegated responsibilities should be continued.

Sec. 21A.19. Appeal from decision of the Commission.

- (a) An applicant aggrieved by the Commission's decision may file an appeal with the State Historic Preservation Review Board.
- (b) An applicant shall file the appeal within (60) sixty days after the Commission provides its decision to the applicant. The applicant may submit all, or part of his or her evidence and arguments in written form.

- (c) An applicant aggrieved by the decision of the State Historic Preservation Review Board may appeal the decision to the Macomb County Circuit Court.
- (d) A citizen or duly organized historic preservation organization in the City aggrieved by a decision of the Commission may appeal the decision to the Macomb County Circuit Court

Sec. 21A.20 - 21A.24. Reserved.

DIVISION 4. METHODS TO PRESERVE RESOURCES.

Sec. 21A.25. Plan for preservation of resource.

- (a) If an application is for work that will adversely affect the exterior of a resource the Commission considers valuable to the City, State, or nation, and the Commission determines that the alteration or loss of that resource will adversely affect the public purpose of the City, State, or nation, the Commission shall attempt to establish with the owner of the resource an economically feasible plan for preservation of the resource.

Sec. 21A.26. Prevention of demolition by neglect.

- (a) On a finding by the Commission that a resource is threatened with demolition by neglect, the Commission may:
 - (1) Require the owner of the resource to repair, within a reasonable period of time, all conditions contributing to demolition by neglect; or
 - (2) If the owner does not, or cannot make repairs within the time prescribed, the Commission or its agents may seek a court order to enter the property and make such repairs as are necessary to prevent demolition by neglect.
 - i. The cost of the work shall be charged to the owner, and may be levied by the City as a special assessment against the property.
 - ii. The Commission or its agents may enter the property for purposes of this section by obtaining an order from the Macomb County Circuit Court.

Sec. 21A.27. Demolition.

- (a) Prior to issuing a Notice to Proceed to demolish a resource, the Commission may require an applicant to have a historical survey of the property done before or after demolishing the resource.

Sec. 21A.28. Remedies for work performed without a permit.

- (a) When any person performs work or causes work to be performed on a resource without first obtaining a permit required by this Article, and the Commission finds that the work does not qualify for a Certificate of Appropriateness, the Commission may require the owner to, within a reasonable period of time:

- (1) Restore the resource to the condition the resource was in before the inappropriate work was done; or
 - (2) Modify the work so that it qualifies for a Certificate of Appropriateness.
- (b) If the owner does not comply with the Commission's restoration or modification requirement within the time prescribed, the Commission may seek an order from the Macomb County Circuit Court that requires the owner to restore the resource to its former condition or to modify the work so that it qualifies for a Certificate of Appropriateness.
- (c) If the owner does not comply or cannot comply with the order of the Court, and the order so provides, the Commission or its agents may 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.
- (1) The cost of the work shall be charged to the owner, and may be levied by the City as a special assessment against the property.

Sec. 21A.28. Moratorium.

- (a) If the City Council finds that pending work will cause irreparable harm to a resource, the City Council may by resolution declare an emergency moratorium of all such work for a period, not to exceed six (6) months.
- (b) After the expiration of the initial emergency moratorium period, if the City Council finds that the threat of irreparable harm to resources is still present, it may extend the emergency moratorium for an additional period, not to exceed six (6) months.
- (c) The Commission may summarily deny any pending permit application concerning a resource that is subject to an emergency moratorium.

Sec. 21A.29. Acquisition of resource by City.

- (a) As provided by the Michigan Local Historic District's Act, MCL 399.207, the City Council may acquire, and the Commission may maintain a resource if:
 - (1) Efforts by the Commission to preserve a resource fail; or
 - (2) City Council determines, after review and recommendation of the Commission, that it is in the public interest to acquire the resource.
- (b) On the recommendation of the Commission, the City may sell resources acquired under this Section with protective easements included in the property transfer documents.

DIVISION 5. PENALTIES

Sec. 21A.30. Penalties.

- (a) Any person or entity who violates any provision of this Article is responsible for a municipal civil infraction punishable by a fine of up to \$5,000.
- (b) Pursuant to MCL 399.215(2), a court may order the person or entity to pay the costs to restore or replicate a resource unlawfully constructed, added to, altered, repaired, moved, excavated or demolished.

Sec. 21A.31 – 21A.35. Reserved.

SECTION 3. This ordinance shall take effect on October 13, 2014.

I HEREBY CERTIFY that the foregoing Ordinance No. 30-1006 was adopted by the Council of the City of Warren at its meeting held on September 23, 2014.

PAUL WOJNO
City Clerk

Published: October 8, 2014