

**ARTICLE XIII. FARMERS AUTO AND MACHINERY HISTORIC OVERLAY DISTRICT.**

**Sec. 122-271. Statement of purpose.**

Historic preservation is declared to be a public purpose and the legislative body of a local unit may by ordinance regulate the construction, addition, alteration, repair, moving, excavation, and demolition of resources in historic districts within the limits of the local unit. It is the intent of the Farmers Auto and Machinery historic overlay district, to establish regulations to protect the public health, safety and general welfare, as well as the social and economic well-being of the community. More specifically, the purpose of this article is to:

- A. Enable the city, as the steward for the preservation of the city's history, to protect and preserve the city's historic and cultural resources for future generations, inasmuch as they are considered to be treasured assets.
- B. Promote, preserve and protect the integrity of the city's historic areas, including the stabilization and enhancement of property values and the encouragement of compatible building development.
- C. Protect and enhance historic areas to attract residents, tourists and visitors to serve as a support and stimulus to business and industry.
- D. Foster civic pride in the beauty and accomplishments of the past.
- E. Strengthen the economy of the city.

**Sec. 122-272. Scope.**

- A. The regulations of this division shall apply to all lands within the city that are located within the boundaries of the Farmers Auto and Machinery historic overlay district, as shown on the city official zoning map and located on the south side of East Midland Street between South Walnut Street and the abandoned right-of-way of the former Michigan Central Railroad, and is commonly described as all of Lots 2, 3, and 10, and those parts of Lots 4, 5, 8, and 9 west of the railroad right-of-way, all of Block 1 of the Village of Lake City, the latter being the original name for the Village of Wenona.
- B. The provisions and restrictions of this division shall be considered to apply in addition to and, where applicable, in the stead of the provisions of underlying zoning districts shown on the official zoning map, sufficient to fulfill the purposes of this article. Uses and regulations otherwise applicable in existing zoning districts shall not be allowed unless also permitted in and developed in accordance with the following regulations.

C. This division shall take precedence over any conflicting ordinances or codes.

**Sec. 122-273. Special definitions.**

The following definitions shall apply to this division in addition to those contained in article II of this chapter:

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

*Bureau* means the bureau of history of the Michigan department of state.

*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 a historic district commission created by the legislative body of a local unit pursuant to section 122-275 of this chapter.

*Construction* means the act of adding an addition to an existing structure or the erection of a new principal or accessory structure on a lot or property.

*Demolition* means the razing or destruction, whether entirely or in part, of a resource and includes, but is 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.

*Design guideline* means a standard of appropriate activity that will preserve the historic and architectural character of a resource.

*Exterior architectural appearance* means the architectural character and general composition of the exterior of a structure, including, but not limited to, the kind, color, and texture of the building material, and the type, design, color and character of all windows, doors, light fixtures, signs, and appurtenant elements.

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

*Historic district commission* means the Bay City Historic District Commission as established in section 122-275.

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

*Moving* means any relocation of a structure on its site or to another site.

*Notice to proceed* means the written permission to issue a permit for work that is inappropriate and that adversely affects a resource.

*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.

*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 a committee or a standing committee for the purpose of making a recommendation as to whether it should be established as historic district or added to an established historic district.

*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 chapter.

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

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

**Sec. 122-274. Establishment, modification or elimination of historic districts.**

An historic district may be established, modified, or eliminated through the procedures outlined in sections 3 and 14 of P.A. 169 of 1970, as amended.

**Sec. 122-275. Administration and enforcement.**

- A. In addition to, and, where applicable, in the stead of the administration and enforcement provisions in article XXV of this chapter, the following administrative and enforcement procedures shall apply.

- B. A historic district commission is hereby established as an administrative body whose purpose is to enforce the provisions of this article.
1. *Composition.* The city historic district commission shall consist of seven members, all of whom shall be appointed by the mayor and approved by the city commission. Persons appointed must be residents of the city. The mayor shall make every reasonable effort to appoint a majority of persons with a demonstrated interest in or knowledge of historic preservation. At least one member, if available, shall be a graduate of an accredited school of architecture with at least 2 years of architectural experience or who is an architect registered in this state. At least two members must be appointed from a list of citizens nominated by the Bay County Historical Society. Members may be re-appointed.
  2. *Terms.* The term of office of the members of the historic district commission shall be for three years except the initial appointments of some of the members shall be for less than 3 years so that the initial appointments are staggered and that subsequent appointments do not recur at the same time. All members shall hold office until their successors are appointed. Vacancies occurring otherwise than through the expiration of terms shall be filled for the unexpired term only. Vacancies must be filled within 60 calendar days. Members may be removed for cause by the mayor and city commission.
  3. *Officers, rules and records.* Officers shall consist of a chairman, vice-chairman and a secretary; elected by the historic district commission, who shall serve a term of one year and shall be eligible for reelection. The historic district commission shall adopt rules for transaction of business and shall keep a record of its proceedings and decisions, with supporting documentation, which record shall be a public record.
  4. *Powers and duties.* The historic district commission shall have the following powers and duties:
    - a. To adopt its own procedural regulations.
    - b. To review permit applications made under section 122-276 for work within the boundaries of the Farmers Auto and Machinery historic overlay district, as shown on the official zoning map; and further to take action on such applications in accordance with the procedures in section 122-277. In reviewing such applications, the historic district commission shall apply the standards and guidelines as contained in this division.
    - c. To further define design review standards and guidelines as contained in this section.
    - d. To keep a record of its resolutions, 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 act, Act No. 442 of the Public Acts of 1976, as amended.

- e. To conduct business at a public meeting of the historic district commission held in compliance with the open meetings act, Act No. 267 of the Public Acts of 1976, as amended. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976, as amended. 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.
- f. To advise the planning commission on proposed zoning amendments and special approval uses within the boundaries of the Farmers Auto and Machinery historic overlay district, as requested by the planning commission.

**Sec. 122-276. Design review procedures.**

- A. Design review required.  
A permit shall be obtained from the historic district commission before any work affecting the exterior appearance, including signs and appurtenances thereto, is performed within the Farmers Auto and Machinery historic overlay district. Interior work which causes a visible change to the exterior of the resource shall be reviewed. If an application is for work that will adversely affect the exterior of a resource considered valuable to the local unit, state, or nation, and the historic district commission determines that the alteration or loss of that resource will adversely affect the public purpose of the local unit, state, or nation, the historic district commission shall attempt to establish with the owner of the resource an economically feasible plan for preservation of the resource.
- B. Application.  
The person, individual, partnership, firm, corporation, organization, institution, or agency of government proposing to do work shall file an application for architectural review with the planning division. The application shall be immediately referred together with all required supporting materials that make the application complete to the historic district commission. A permit shall not be issued and proposed work shall not proceed until the historic district commission has acted on the application by issuing a certificate of appropriateness or a notice to proceed as prescribed in this section.
- C. Information required.  
Depending upon the nature and scale of the proposed activity, any or all of the following information may be required for historic district commission review: architectural plans, site plans, landscaping plans, proposed signs and appropriate detail as to character, proposed exterior lighting arrangements, elevations of all portions of resources and indications as to construction materials, design of doors

and windows, ornamentation, colors and the like, photographs or perspective drawings indicating visual relationships to adjoining structures and spaces, and such other exhibits and reports as are necessary.

D. Neglected resource.

Upon a finding by the historic district commission that a historic resource within a historic district or a proposed historic district subject to its review and approval 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 or its agents may enter the property and make such repairs as are necessary to prevent demolition by neglect, the costs of the work shall be charged to the owner, and may be levied by the local unit as a special assessment against the property. The historic district commission or its agents may enter the property for purposes of this section upon obtaining an order from the circuit court.
3. 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 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 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 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 in accordance with the court's order. The costs of the work shall be charged to the owner, and may be levied by the local unit as a special assessment against the property. When acting pursuant to an order of the circuit court, a commission or its agents may enter a property for purposes of this section.

E. Time for approval.

The design review period shall not exceed 60 days unless mutually agreed upon by the historic district commission and the applicant. Failure of the historic district commission to act within the time limits specified above shall be deemed to constitute approval.

**Sec. 122-277. Design review standards and guidelines.**

A. Standards in reviewing plans.

The commission shall follow the U.S. secretary of the 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 Michigan historical center of the department of state. The commission shall also consider all of the following:

1. The historic or architectural value and significance of the resource and its relationship to the historic value of the surrounding area.
2. The relationship of any architectural features of the resource to the rest of the resource and to the surrounding area.
3. The general compatibility of the design, arrangement, texture, and materials proposed to be used.
4. Other factors, such as aesthetic value, that the commission finds relevant.

B. Design review process.

Upon receipt of all necessary applications and materials, the historic district commission shall review such applications and materials, and on the basis of the design review standards and guidelines contained in this article, shall:

1. File certificates of appropriateness, notices to proceed, or an application of denial subject to such conditions as may be warranted, with the building inspector
2. Following the approval of the design review application by the historic district commission as appropriate, the design review application shall be transmitted, along with the approved plans and materials to the building inspector, and a building permit shall be issued so long as all other applicable codes and ordinances have been met. No building permit or notice to proceed shall be issued by the building inspector unless and until the design review application has been appropriately approved.
3. A denial shall be accompanied with a written explanation by the commission of the reasons for the denial and, if appropriate, a notice that an application may be resubmitted for commission review when suggested changes have been made. The denial letter shall also include notification of the applicant's rights of appeal to the state historic preservation review

board and the circuit court. The building inspector is bound to the decision of the commission and may not issue a building permit.

C. Notice to proceed.

Work within a historic district shall be permitted through the issuance of a notice to proceed by the historic district 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:

1. The resource constitutes a hazard to the safety of the public or to the structure's occupants.
2. 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.
3. 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.
4. Retaining the resource is not in the interest of the majority of the community.

D. Design standards and guidelines.

The Secretary of the Interior is responsible for establishing standards for all national preservation programs under Departmental authority and for advising Federal agencies on the preservation of historic properties listed or eligible for listing in the National Register of Historic Places. The following Standards are to be applied to specific rehabilitation projects in a reasonable manner, taking into consideration economic and technical feasibility:

1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such

as adding conjectural features or architectural elements from other buildings, shall not be undertaken.

4. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.
6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
8. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
10. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

**Sec. 122-278. Moving and demolition of structures.**

A. Moving of structures.

No permit shall be issued to allow the moving of all or any portion of a structure into or out of the Farmers Auto and Machinery historic overlay district without design review approval, in accordance with procedures and regulations as set forth in section 122-276, and in accordance with design review standards and guidelines as set forth in section 122-277. Structures being moved into such district shall be deemed to have the same impact as new construction, while structures being moved out of such district shall be deemed to have the same impact as demolition.

B. Demolition of structures.

No permit shall be issued to allow the demolition of all or any portion of a structure in the Farmers Auto and Machinery historic overlay district without design review approval in accordance with procedures and regulations as set forth in section 122-276.

1. The historic district commission shall give consideration to:
  - a. The contribution of the building to its immediate surroundings and to the district character as a whole;
  - b. The historical and architectural importance of the building; and
  - c. The building's structural condition.
2. If, after its review of a design review application for demolition, the historic district commission shall find that:
  - a. The structure does not contribute to the overall character of the district and is of no historical or architectural importance; and/or
  - b. The structure is a hazard to the public health, safety and welfare and is beyond repair, the design review application shall be approved and a demolition permit shall be issued.
3. If, all efforts of the historic district commission to preserve a resource fail, or if it is determined by the city commission that public ownership is most suitable:
  - a. The property owner shall be required to offer the property for sale at a price reasonably related to its fair market value.
  - b. The city commission, if considered to be in the public interest, may acquire the resource using public funds, public or private gifts, grants, or proceeds from the issuance of revenue bonds. The acquisition shall be based upon the recommendation of the historic district commission or standing committee.
  - c. Upon recommendation of the historic district commission or standing committee, the city commission may sell resources acquired under this section with protective easements included in the property transfer documents if appropriate.

C. Demolition by neglect.

Any property owner who shall by willful means allow a building to deteriorate to the point where rehabilitation is no longer feasible and the building must be demolished shall be deemed to have demolished a property without a permit and shall be in violation of this chapter.

**Sec. 122-279. Special area, height and placement regulations.**

Within the Farmers Auto and Machinery historic overlay district, the following area, height and placement regulations shall apply in addition to and, where applicable, instead of the area, height and placement regulations as provided in article XIV of this chapter:

- A. Height.  
New buildings or alterations to existing buildings in the Farmers Auto and Machinery historic overlay district shall be to a height within 10 percent of the average height of existing buildings in the block face in which the construction or alteration is proposed. If there are no existing buildings on the block face, then such new or altered building shall be to a height within 10 percent of the average height of buildings within 400 feet of and fronting on the same street as the proposed new or altered building.
  
- B. Front yard setbacks.  
The front yard setback of any new construction shall equal or fall within the front yard setbacks of abutting structures. If there are no existing structures on the block face where such new construction is proposed, front yard setbacks shall be as set forth in article XIV.

**Sec. 122-280. Sign regulations.**

Within the Farmers Auto and Machinery historic overlay district, where the underlying zoning district is the C-2-A, general business district as shown on the zoning map of the city, the following sign regulations shall apply in addition to and, where applicable, in the stead of sign regulations contained in article XX of this chapter. All proposals for new or revised signs within Farmers Auto and Machinery historic overlay district shall be subject to design review approval as set forth in sections 122-276 and 122-277.

- A. Types of signs permitted.  
Types of signs permitted include the following structure types: standard sign, wall sign, projecting sign and marquee sign. Billboards, roof signs, banners, promotional and portable signs are prohibited. No off-premise advertising signs shall be permitted.
  
- B. Area, height and placement regulations.
  - 1. Standard sign:
    - a. *Area.* 16 square feet per face, per side.
    - b. *Height.* Maximum 15 feet.
    - c. *Placement.* The uprights shall not be closer than 2 feet from any public property.
  
  - 2. Wall sign:
    - a. *Area.*
      - i. For buildings or portions thereof under separate management or control having building frontage of 50 feet or less, the surface area of wall signs on the premises shall not exceed two square feet per lineal foot of building front-

age or 75 square feet, whichever is less, for each frontage on a public street or each frontage with public access.

ii. For buildings or portions thereof under separate management or control having building frontage in excess of 50 feet, the surface area of wall signs on the premises shall not exceed 1.5 square feet per lineal foot of building frontage or 125 square feet, whichever is less.

b. *Height.* No wall sign shall be placed any higher than the sill of the second story windows.

c. *Placement.* 18 inch maximum extension from face of building to accommodate necessary supporting devices.

3. Projecting sign:

a. *Area.* Maximum of 10 square feet.

b. *Height.* Maximum height of 15 feet. Minimum height often feet.

c. *Placement.* Four-foot maximum projection from the building face.

C. Total allowable area.

In no event shall the total area of all signs for any building or portion thereof under separate management or control exceed the square footage as outlined above in the area provisions for wall signs.

D. Canopies and awnings.

Signs on canopies and awnings are allowed provided their area is included in the total allowed sign area as outlined above.

### **Sec. 122-281. Appeals.**

The historic district commission shall be considered an agency charged with the enforcement of zoning chapter provisions, and decisions made by the commission with respect to the regulations of this article are appealable to the state historic preservation review board of the Michigan historical center within the department of state. The appeal shall be filed within 60 days after the decision is furnished to the applicant. The appellant may submit all or part of the appellant's evidence and arguments in written form. The review board shall consider an appeal at its first regularly scheduled meeting after receiving the appeal, but may not charge a fee for considering an appeal. The review board may affirm, modify, or set aside a commission's decision and may order a commission to issue a certificate of appropriateness or a notice to proceed. A permit applicant aggrieved by the decision of the state historic preservation review board may appeal the decision to the circuit court having jurisdiction over the historic district commission whose decision was appealed to the state historic preservation review board.

### **Sec. 122-282. Violations.**

A violation of any provision of this article shall be considered a violation of this chapter and penalties as set forth may apply:

- A. A person, individual, partnership, firm, corporation, organization, institution, or agency of government that violates this act is responsible for a municipal civil infraction, punishable by a class F fine.
- B. A person, individual, partnership, firm, corporation, organization, institution, or agency of government that violates this act may be ordered by the court to pay the costs to restore or replicate a resource unlawfully constructed, added to, altered, repaired, moved, excavated, or demolished.

**Secs. 122-283—122-300. Reserved**