

Village of Mantua, Ohio
ORDINANCE 2012-49
(amended)

**AN ORDINANCE ENACTING CHAPTER 159 OF THE VILLAGE OF MANTUA
CODIFIED ORDINANCES, ESTABLISHING A HISTORIC LANDMARKS
COMMISSION AND HISTORIC PRESERVATION GUIDELINES FOR THE VILLAGE
OF MANTUA, OHIO.**

WHEREAS, The Village Council, being mindful of the proud history of this community, hereby declares as a matter of public policy that the preservation, protection, perpetuation and use of areas, places, buildings, structures, works of art and other objects having a special historical, community, or aesthetic interest or value is a public necessity and is required in the interest of health, prosperity, safety, and welfare of the people; and

WHEREAS, this Council now wishes to enact Chapter 159 of the Codified Ordinances of the Village of Mantua in order to address these concerns.

NOW THEREFORE, BE IT ORDAINED by the Council of the Village of Mantua, a majority or more of the members elected thereto concurring, that:

SECTION 1: Village of Mantua Codified Ordinances Chapter 159 is hereby enacted as set forth in “Exhibit A”, attached hereto and incorporated herein by reference.

SECTION 2: All other provisions of the Village of Mantua Codified Ordinances shall remain in full force and effect.

SECTION 3: It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 4: This Ordinance shall take effect and be in full force from and after the earliest period allowed by law.

Passed in Council this 20th day of November, 2012.

1st Reading: August 21, 2012

Mayor Linda Clark

2nd Reading: September 18, 2012

3rd Reading: October 16, 2012 (tabled)

ATTEST:

Effective: December 20, 2012

Clerk

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I hereby certify the above Ordinance was posted at the five (5) public notice locations in the Village of Mantua, Ohio, on the _____ day of _____, 2012.

Clerk

Approved as to Legal Form:

Michele A. Stuck, Solicitor

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“EXHIBIT A”

CHAPTER 159
HISTORIC PRESERVATION

159.01: STATEMENT OF PURPOSE

The Village Council, being mindful of the proud history of this community, hereby declares as a matter of public policy that the preservation, protection, perpetuation and use of areas, places, buildings, structures, works of art and other objects having a special historical, community, or aesthetic interest or value is a public necessity and is required in the interest of health, prosperity, safety, and welfare of the people. The purposes of this ordinance are:

- a) To maintain and enhance the distinctive character of the historic resources of Mantua by establishment of procedures whereby certain areas, places, buildings, structures and works of art which reflect elements of the Village's cultural social, economic, political, or architectural history shall be allowed that measure of protection afforded by a thorough study of alternatives to incompatible alterations or demolition before such acts are performed.
- (b) To contribute to the economic, recreational, cultural and educational development of the Village by:
 - (1) Fostering civic pride in the beauty and notable accomplishments of the past;
 - (2) Promoting the use and preservation of historic sites and structures for the education and general welfare of the people of the Village;
 - (3) Enhancing the visual and aesthetic character, diversity and interest of the Village;
 - (4) Facilitating the rehabilitation and revitalization of certain older neighborhoods and areas;
 - (5) Protecting and enhancing attractions to residents, tourists and visitors;
 - (6) Stabilizing and improving property values; and
 - (7) Stimulating business and attracting development.

159.02: DEFINITIONS

- (a) "Alter" or "alteration" means any exterior visual or material change to any property listed on the National Historic Register. For the purpose of this ordinance, alterations shall include a change in design, color, texture, material or exterior feature. Ordinary maintenance to correct any deterioration, decay or damage to a structure and to restore

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the structure to its condition prior to such deterioration, decay or damage are excluded from the definition of “alteration”, provided such work does not involve a change in design, color, texture, material or exterior feature.

- (b) "Applicant" means any owner, owners, association, partnership or corporation who applies for a certificate of appropriateness.
- (c) "Architect" means a person duly licensed as a registered architect by the State of Ohio.
- (d) "Certificate of Appropriateness" means a certificate issued by the Mantua Historic Landmarks Commission to an applicant stating that a proposed alteration, demolition or new construction to a listed property is appropriate under the provisions of this ordinance.
- (e) "Commission" means the Historic Landmarks Commission of the Village of Mantua.
- (f) "Council" means the village Council of the Village of Mantua, Ohio.
- (g) "Demolish" or "demolition" means the razing or removal, in whole or in part, of any structure.
- (h) "Environmental feature" means any natural or man-made object, attachment, or landscaping that is intended as part of the visual composition of a size, including but not limited to fences, driveways, exterior lighting fixtures, and trees.
- (i) "Exterior architectural feature” means the architectural style, general design and general arrangement of the exterior of a building or other structure including but not limited to windows, doors, porches, storefronts, cornices, siding materials, decorative trim, signs and other fixtures appurtenant to the exterior of a building.
- (j) "Listed property" means any property which has special character, historic, aesthetic or architectural value as part of the heritage, development or cultural characteristics of the State, or the United States and which has been designated as a listed property pursuant to the provisions of the Secretary of the Interior’s National Register of Historic Places and The Ohio Historic Preservation Office, and pursuant to the Provisions of this ordinance.
- (k) "Member" means any member of the Historic Landmarks Commission.
- (l) "Owner" means the owner of record, and the term includes the plural as well as the singular.
- (m) "Ordinary maintenance" includes the repair of existing exterior architectural features including but not limited to the roof, eaves, downspouts, siding, windows and doors of a listed property providing that it does not result in a change of design, color, texture, material or exterior architectural feature. For the purposes of this ordinance the sandblasting of masonry is not considered ordinary maintenance.

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- (n) "Property" means any area, place, site (including an archeological site), building, structure, object or work of art.
- (o) "Reconstruction" means the reproducing by new construction the exact form and detail of a vanished structure, or apart thereof, as it appeared at a specific period of time.
- (p) "Substantial hardship" means a condition unique to the property under consideration and a condition under which an action by the Commission would force the applicant to suffer practical difficulty and denial of the reasonable use of the property.
- (q) "Verbal boundary description" is a detailed description which delineates the physical extent of a property. If the boundaries do not coincide with legally recorded boundaries (lot or parcel number, deed book and page number), then street names, property lines, geographical features and other lines of convenience which clearly distinguish the listed property from its surroundings may be used. This is also frequently referred to as a "metes and bounds" description.

159.03: ESTABLISHMENT OF HISTORIC LANDMARKS COMMISSION

In recognition of the need for the establishment of a public body that will provide for the protection and enhancement of the distinctive character of the historic resources of the Village and for the objective review of alternatives to proposed alteration or demolition of certain notable structures, works of art, objects or areas within the Village, Council hereby adopts this ordinance and establishes the Mantua Historic Landmarks Commission. The Mantua Historic Landmarks Commission, hereinafter referred to as the Commission, shall consist of five (5) members, and who shall be appointed by the Mayor with the approval of Council. All members should have to the highest extent possible a recognized knowledge of and a known interest in architectural and/or historic preservation and design together with a determination to work for the overall improvement of the quality of the Village's physical environment. At least two (2) members of the Commission shall be preservation related professional members from the fields of archaeology, architecture, architectural history, history, planning or a related discipline to the extent they are available in the community and willing to serve; and at least one (1) member shall be a property owner within the Village. Nominations should be sought from the Mantua Historical Society, the Board of Realtors, and any other group or organization that might have an interest in the work of the Commission. One (1) member shall be appointed for an initial term of one (1) year; two (2) members shall be appointed for an initial term of two (2) years; and two (2) members shall be appointed for an initial term of three (3) years. All subsequent terms for members shall be for a period of three (3) years. Vacancies caused by death, resignation or otherwise shall be filled within sixty (60) days unless extenuating circumstances require a longer period. In this case, an extension may be given in writing upon petition of the Village.

159.04: CONFLICT OF INTEREST

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No voting member of the Commission shall participate in the review of any item for discussion before such Commission if such member has any direct financial interest in the property involved in such discussion.

159.05: MEETINGS

The Commission shall hold four (4) meetings on an annual basis as determined by the Chairperson of the Commission; and additional meetings when required as a result of an application for a certificate of appropriateness or an emergency relating to any listed property. All such meetings shall be held in the Village Council Chambers. All meetings must have a previously advertised agenda unless such emergency conditions exist as to present a threat to the property owner's or the general public's health or safety. Public notice must be given at least one week prior to all special meetings except in an emergency situation. A quorum shall be a simple majority of the Commission voting members.

159.06: COMPENSATION

No compensation shall be paid to a member of the Commission for services performed on this Commission. All operating expenses incurred by the Commission are the responsibility of the Village Council. All fines collected as a result of noncompliance with this ordinance will be used for the operating expenses of the Commission.

159.07: RECORDS

The Commission shall maintain complete records of all listed properties, written rules and guidelines for Commission proceedings in a book kept for such records in the office of the Clerk of Council for public view. The Commission Secretary shall be responsible for maintaining the records and the records shall be reviewed twice a year by the Commission for completeness.

159.08: ORGANIZATION AND PROCEDURES OF THE COMMISSION

As soon as it is convenient following their appointment by Council, the Commission shall meet and elect a chairman, a vice-chairman to serve in the absence of the chairman, and a secretary. The Commission shall adopt its own rules of procedure, which shall be made available for public inspection. The rules of procedure shall provide for regular and special meetings which will be held in a public place. All review decisions and nominations for designations to the National Historic Register will be made in a public forum, with the applicants notified of meetings and advised of decisions. Annual reports, written minutes of actions, and decisions and the written reasons for making those decisions by the Commission shall be made available for public inspection.

159.09: DUTIES OF THE COMMISSION

The Commission shall have the following duties in addition to those otherwise specified in this ordinance:

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- (a) To improve the quality of life in the Village by striving to further and achieve the spirit and purpose of this ordinance;
- (b) To conduct or cause to be conducted or assist in the conduct of a continuing survey of all structures, works of art, objects or areas of architectural, historic or aesthetic interest in the Village, which the Commission believes, on the basis of information available or presented to it, are or will be eligible for designation as a listed property;
- (c) To work for the continuing education of the residents of the Village with respect to the architectural and historic heritage of the Village and the listed properties designated under the provisions of this ordinance, and shall make every effort to improve the citizenry's awareness of these concerns.
- (d) To work cooperatively with planners, developers, the Village and others in long-range planning efforts to ensure the inclusion of historic preservation values in such planning efforts;
- (e) To review proposed National Register nominations for the properties within its jurisdiction and forward comments to the State Historic Preservation Officer;
- (f) To employ technical experts and such other employees as may be required to perform its duties, within any appropriations made available therefor, and to perform such other related tasks within its capabilities;
- (g) To conduct or encourage members to attend educational sessions at least once a year pertaining to the function of the Commission or relating to specific historic preservation issues;
- (h) To make recommendations for designation of listed properties to Council;
- (i) To keep a current register of all listed properties. All listed properties shall be given a number, a description accompanied by a photograph, and the reason for the listing. This register shall also include verbal boundary descriptions of listed properties. The register will be made available to the public and to any other interested party, except that access to archaeological site locations may be restricted. All listed property inventory material shall be maintained securely. All inventory material shall be updated once annually, and duplicates of these records (with contact prints) will be made available to The Ohio Historic Preservation Office;
- (j) To review and act upon all applications for "certificates of appropriateness" as required by this ordinance;

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- (k) To establish criteria, rules and regulations not otherwise included in this ordinance for evaluating applications for certificates of appropriateness submitted to it and the manner in which they shall be processed;
- (l) To use the Secretary of the Interior's "Standards for Rehabilitation" for making decisions on requests for certificates of appropriateness submitted to it;
- (m) To consider whether the failure to issue a certificate of appropriateness will involve a "substantial hardship" to the applicant and whether the certificate may be issued without substantial detriment to the public welfare and without substantial derogation from the interest and purposes stated herein; and
- (n) To make recommendation to Council for additions or revisions to this ordinance. Additional responsibilities may be undertaken by the Commission upon mutual written agreement between the State Historic Preservation Officer and the Village Council. A written agreement will address what duties are to be performed, what staff assistance is needed to perform the work, and what level of activity in each area of responsibility will be maintained. All delegated responsibilities must be complementary.

159.10: DESIGNATIONS OF LISTED PROPERTIES

- (a) In considering the designation of any area, place, building, structure, object or work of art in the Village as a listed property, the Commission shall apply the following criteria with respect to such property. One (1) or more of the following must apply:
 - (1) Its character, interest or value as a part of the development, heritage or cultural characteristics of the Village, State or the United States;
 - (2) Its location as the site of a significant historic event;
 - (3) Its identification with a person or persons who significantly contributed to the culture and development of the Village;
 - (4) Its exemplification of the cultural, economic, social, archaeological or historic heritage of the Village;
 - (5) Its portrayal or the environment of a group of people in an era of history characterized by a distinctive architectural style;
 - (6) Its embodiment of distinguishing characteristics of an architectural type or specimen;
 - (7) Its identification as the work of an architect or master builder whose individual work has influenced the development of the Village;

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- (8) Its embodiment of elements of architectural design, detail, materials or craftsmanship which represent a significant architectural innovation;
 - (9) Its relationship to other distinctive areas which are eligible for preservation according to plan based on historic, cultural or architectural innovation;
 - (10) Its unique location or singular physical characteristics representing an established and familiar visual feature of a neighborhood or the Village; or
 - (11) Its having yielded, or **have a** likelihood of yielding, information important to the understanding of prehistory or history.
- (b) The Commission shall notify the owner of any proposal to list his/her property. The Commission shall secure the owner's written consent for the proposed designation and upon receipt of such consent the property shall be listed upon favorable recommendation of the Commission to Council and upon approval by Council at a regular or special session of Council.
- (c) Before recommendation for local designation of a property is made to the Village Council by the Commission, the property owner shall give the Commission written notice of his/her approval or objection to the proposed listing within thirty (30) days from the time he/she is notified of the proposed listing on the appropriate form supplied to them by the Commission. Upon receipt of the form, the Village Council will take the appropriate action within thirty (30) days regarding the local listing of the property, No property shall be listed without the owner's consent. No exterior alteration to the Property shall take place until Council has acted on the proposed listing unless Council makes a determination that an emergency exists.

159.11: LIMITATIONS OR CONSTRUCTION AND DEMOLITION

No construction, reconstruction, alteration or demolition of any structure or significant exterior architectural feature of any listed property shall be undertaken prior to obtaining a certificate of appropriateness from the Commission in the manner described herein.

159.12: ISSUANCE OF CERTIFICATE OF APPROPRIATENESS

- (a) When the owner of a listed property desires to make any change in design, color, texture, materials or exterior features, including construction, reconstruction, alteration or demolition or any change in environmental features, such owner or his/her agent shall apply for and secure a certificate of appropriateness from the Commission. The application for the certificate of appropriateness shall be filed with the Commission in such form and with such plans, specifications and other materials as the Commission may from time to time prescribe.

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- (b) The Commission shall consider such application, plans, specifications and other material at the next regularly scheduled meeting of the Commission provided that a completed application is filed at least two (2) weeks prior to the meeting. If the Commission determines that no architectural or environmental feature is involved, they shall issue a certificate of appropriateness.
- (c) In the event that the Commission finds that an architectural feature is involved, the Commission shall determine whether or not the proposed construction, reconstruction, alteration or demolition is appropriate. In making such determination the Commission shall refer to the Secretary of the Interior's Standards for Rehabilitation as design guidelines to determine eligibility for a certificate of appropriateness.
- (d) In the event that the Commission finds such proposed construction, reconstruction, alteration or demolition is appropriate, then the secretary of the Commission shall issue certificate of appropriateness. The issuance must take place within thirty (30) days after the initial review.
- (e) In the event that the Commission finds such proposed construction, reconstruction, alteration or demolition is not appropriate, then the Commission shall deny issuance of a certificate of appropriateness. The notice of denial must take place within thirty (30) days of initial review. Appeals of the decision of the Commission shall be made to the Council. Council shall make a decision on an appeal for a certificate of appropriateness within thirty (30) days of receipt of the appeal.
- (f) In the event the Commission determines that a certificate of appropriateness will not be issued, it shall forthwith state in its records the reasons for such determination and may include recommendations respecting the proposed construction, reconstruction, alteration, demolition or change to any listed property. The secretary of the Commission shall notify the applicant of such determination and transmit to him/her reasons for denial and recommendations, if any, of the Commission.
- (g) At its discretion, the Commission may establish a waiting period not to exceed one (1) year, during which time no action shall be taken on the issuance or denial of a certificate of appropriateness in cases involving the demolition of a listed property. During such waiting period, the Commission shall negotiate with the owner of the property in order to develop a compromise proposal acceptable to both. The first meeting between the Commission and the owner shall take place within thirty (30) days from the date of denial of the certificate of appropriateness and both parties must continue to have good faith meetings at least every forty-five (45) days after the initial meeting. If a compromise proposal is accepted by both parties, then the Commission may issue a certificate of appropriateness.
- (h) Where a parking lot or garage is proposed as a replacement structure or project, a technical study of all parking needs of the facility or area which such parking lot or structure is proposed to serve must be submitted along with the application for a

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certificate of appropriateness. Where no replacements structure or project is proposed, the Commission may consider the application as if a parking area was proposed.

159.13: EXCLUSIONS AND EXEMPTIONS

Nothing in this ordinance shall be construed to prevent the ordinary maintenance or repair of any property or area listed under the provisions of this ordinance provided such work involves no change in design, color, texture, material or exterior appearance; nor shall anything in this ordinance be construed to prevent any change, including the construction, reconstruction, alteration or demolition of any feature which, in the view of the Village Council, acting lawfully, is required for the public health or safety because of an unsafe or dangerous condition, or which is required for provision of police, fire suppression or ambulance services.

159.14: PENALTY

Whoever violates, disobeys, omits, neglects or refuses to comply with or resists the enforcement of any provision of this ordinance shall be guilty of a minor misdemeanor for each offense, and each day's violation of any such provisions shall constitute a separate offense.

159.15: SEVERABILITY OF PROVISIONS OF ORDINANCE

The provisions of this ordinance shall be severable, and the holding of any provision or section thereof to be unlawful shall not affect any other provision or section than that expressly held to be invalid.