

ORDINANCE NO. 8-91

CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILPERSON Sally Beels ON
THE 17th DAY OF June, 1991.

AN ORDINANCE ESTABLISHING PROCEDURES AND CRITERIA TO DESIGNATE CERTAIN HOUSES, BUILDINGS, STRUCTURES, AREAS, OR PLACES AS LANDMARKS WITHIN THE CITY OF CENTERVILLE, OHIO, AND TO ESTABLISH PROCEDURES AND REQUIREMENTS TO REGULATE THE RENOVATION, REHABILITATION, REMODELING, ADDITION, ALTERATION, DEVELOPMENT, CONSTRUCTION, OR DEMOLITION OF A DESIGNATED LANDMARK.

Whereas, the City of Centerville, recognizes that certain houses, buildings, structures, areas or places throughout the community possess a character, interest or value as part of the development, heritage, or cultural characteristics of the City, State, or the United States; and

Whereas, the conservation and designation of such houses, buildings, structures, areas or places as landmarks will benefit all citizens of Centerville; and

Whereas, such landmarks will help preserve the historical, cultural, and social, environment that is reflective of the quality of life that citizens of Centerville have enjoyed since 1796; now therefore,

THE MUNICIPALITY OF CENTERVILLE HEREBY ORDAINS:

Section 1. Preamble and Purpose

The City of Centerville, recognizes that certain houses, buildings, structures, areas or places throughout the community possess a character, interest or value as part of the development, heritage, or cultural characteristics of the City, State, or the United States. The conservation and designation of such houses, buildings, structures, areas or places as landmarks will benefit all citizens of Centerville. Such landmarks will help preserve the historical, cultural, and social, environment that is reflective of the quality of life that citizens of Centerville have enjoyed since 1796.

Section 2. Definitions

In addition to the following definitions, all definitions contained in the Definitions Section of the Zoning Ordinance of Centerville, Ohio shall apply to this ordinance.

Alteration - any material change in the external architectural features of a building or structure designated as a landmark. An alteration does not include demolition, building additions, new construction, site development or landscaping.

Architectural Feature - shall include doors, windows, siding, chimneys, dormers, moldings, trim, sills, casing, paneling, pediments, bracketing, quoins, vergeboards, or other similar features that typifies a specific architectural period or periods, or projects a distinctive, appearance that is unique to a building or structure.

Demolition - the substantial deterioration or complete or substantial removal or destruction of any historic structure or any structure located on a historic site.

Historic Significance - the attributes of a district, site or structure that possess integrity of location, design, setting, materials, workmanship, feeling and association, and:

1. are associated with the events that have made a significant contribution to the broad patterns of our history; or
2. are associated with the lives of persons significant in our past; or
3. embody the distinctive characteristics of a type, period, or method of construction, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
4. that has yielded, or may be likely to yield, information important in prehistory or history.

Zoning Ordinance - The Zoning Ordinance of Centerville, Ohio

Section 3. Role of the Board of Architectural Review (BAR)

The Board of Architectural Review (BAR), as established by the Zoning Ordinance is hereby empowered to execute the purposes declared in this ordinance.

Section 4. Duties and Powers of the Board of Architectural Review

- A. The BAR shall recommend to City Council structures or sites to be designated as Landmarks.
- B. The BAR shall recommend guidelines concerning the conservation of historic structures and sites. Such guidelines shall suggest what additions, alterations, demolitions and new construction may be appropriate for a historic structure or site. Such guidelines shall also suggest ways by which historic structures can be redeveloped in a manner that is compatible with new development.
- C. The BAR shall decide applications regarding the construction, preservation, restoration, reconstruction, rehabilitation, or demolition of designated landmarks.
- D. The BAR shall act in an advisory role to the City Council, Planning Commission, Property Review Commission or other board or commission where their action or inaction may affect the conservation of the City's historic resources.

Section 5. Identification, Review and Designation of Individual Landmarks

- A. The Board of Architectural Review is empowered to nominate any area, place, building or structure within the City of Centerville as a landmark to City Council.
- B. In considering the designation of any area, place, building, or structure in the City of Centerville as a landmark, the BAR shall apply the following criteria with respect to such property:
 - 1. Its character, interest or value as part of the development, heritage, or cultural characteristics of the City of Centerville, State of Ohio, or the United States;
 - 2. Its location as a site of significant historic interest;
 - 3. Its identification with a person who significantly contributed to the culture and development of the City;
 - 4. Its exemplification of the cultural, economic, social or historic heritage of the City;
 - 5. Its portrayal of 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 builder whose individual work has influenced the development of the City;
 8. Its embodiment of elements of architectural design, detail, materials or craftsmanship which represents a significant architectural innovation; and
 9. Its unique location or singular physical characteristic representing an established and familiar visual feature of a neighborhood or the City.
 10. If the landmark designation pertains to a large property, then the landmark designation shall be limited, to the extent possible, to the portion of the property of greatest landmark significance.
- C. The BAR shall notify the City of Centerville Historic Commission of a proposed designation.
- D. The BAR shall notify the Planning Commission of the proposed landmark designation. The Planning Commission shall provide a recommendation to the BAR based upon the following:
1. The relationship of the proposed designation to the Comprehensive Plan of the City;
 2. The affect of the proposed designation upon the surrounding neighborhood; and
 3. Any other planning consideration which may be relevant to the proposed designation.
- The Planning Commission may recommend approval, approval with modifications, or rejection of the proposed designation.
- E. The BAR shall hold a public hearing on the proposed designation and shall give due consideration to the findings of fact and the recommendation of the Planning Commission. Upon its conclusion, the BAR recommend approval, denial, or approval with modifications of a proposed designation to the City Council.
- F. The City Council shall give due consideration to the findings of fact of the BAR and the recommendation of the Planning Commission. The City Council shall hold a public hearing and, upon its conclusion, the City Council may designate by ordinance the area, place, building, or

structure as a Landmark.

- G. The City shall file a recorded affidavit with Montgomery County on the property title and add a designation on the City Zoning Map for each landmark property in an attempt to improve notice to a future purchaser of a landmark designated property. Failure of the City to file the above affidavit or make notation on the Zoning Map shall not invalidate any Landmark Designation by the City.

Section 6. Procedure to Designate or Rescind Landmark Status

- A. Any person may apply to the City to designate a landmark in the City or to rescind any landmark status already designated under this ordinance.
- B. No such application shall become effective unless the application shall first be submitted to the BAR in such manner and following the procedures prescribed by the BAR.
- C. The BAR shall hold a public hearing in accordance with the public hearing provisions contained in this ordinance.
- D. The BAR shall within sixty-five (65) days after the public hearing, recommend the approval or denial of the application to the City Council. The BAR shall submit its recommendation in ordinance form to the City Council.
- E. Regardless of the decision of the BAR on an application, the City Council shall hold a public hearing on said application and render a decision.
- F. The City Council shall introduce the application in ordinance form at a regular or special City Council meeting in accordance with the provisions of the City Charter.
- G. During the thirty day period preceding the City Council public hearing, a copy of the text of the proposed ordinance together with the maps, plans, or reports pertaining to or a part of the ordinance shall be on file for public examination in the office of the City Clerk of Council.
- H. Notwithstanding any provision of this ordinance, the City Council may rescind the designation of any area, place, building, or structure as a landmark by ordinance in accordance to the procedures of this section.

Section 7. Renovation, Rehabilitation, Remodeling, Addition, Alteration, Development, or Construction of an Area, Place, Building, or Structure Designated as a Landmark

- A. An area, place, building, or structure designated as a landmark property under the terms of this ordinance shall be subject to the regulations and procedures imposed by this ordinance.
- B. All regulations of the zoning district where a designated landmark is located, as contained in the Zoning Ordinance, shall remain in full effect unless specifically modified by this ordinance.
- C. The renovation, rehabilitation, remodeling, addition, alteration, development, or construction of a building, or structure designated as a landmark shall be in accordance to the requirements contained in the Architectural Preservation District Section of the Zoning Ordinance. Specifically, those requirements that pertain to the shape, design, dimensions, roof, walls, wall openings, and exterior colors of a building or structure.
- D. To the extent possible, all architectural features of a historic building or structure shall be preserved.
 - 1. No architectural feature shall be masked, interrupted, covered or concealed in any way.
 - 2. Any architectural feature of a building or structure is broken, rotted, or otherwise worn-out, shall be repaired or replaced with a similar feature to preserve the architectural integrity of the building or structure.

Section 8. Interior of Buildings Not Regulated

The interior of Landmark designated building shall not be regulated by any provisions of this ordinance.

Section 9. Demolition or Moving of a Designated Landmark

- A. An application to demolish or move a designated landmark shall be in accordance to the requirements contained in the Architectural Preservation District Section of the Zoning Ordinance.
- B. The BAR shall hold a public hearing on any application to demolish or move a Designated Landmark.

Section 10. Demolition or Moving of Any Building in the City that is a Potential Landmark

- A. An application to demolish or move any building in the City shall require a review by the City Planning Department to determine if the building has potential landmark designation status. The decision of the City Planning Department on the potential landmark status of a building is final and not subject to appeal.
- B. If the Planning Department determines that the building has potential landmark designation status, then the City shall have a maximum of 120 days from the date of the filing of the application to demolish or move the building to consider the designation of the building as a landmark in accordance with the procedures of this ordinance. No permit shall be issued to demolish or move a potential landmark designated building until the City has determined if the building is a landmark or the maximum time period for consideration of landmark status has expired.

Section 11. Donation of Significant Landmark Related Building Materials to the City

- A. A property owner may by choice donate and the City may by choice accept the donation of significant landmark related building materials. The City shall store, as long as it deems practical, any such donated materials at City cost.
- B. A person may request for a specific use any landmark related materials donated to the City. If the City grants the request, then the materials will be made available at no cost to the person requesting the materials. In reviewing requests for donated materials the City shall consider the requests potential for advancing the purposes of this ordinance. A person receiving donated material from the City must use that material as specified in their request to the City. If the person is unable to use any material donated by the City in the manner specified in their request, then the material must be returned at no cost to the City.

Section 12. Minimum Maintenance Requirement

- A. The owner of a designated landmark structure whether occupied, vacant or uninhabited, shall provide sufficient maintenance and upkeep for such structure to ensure its perpetuation and to prevent its destruction by deterioration.
- B. Any provision for maintenance contained in this ordinance shall be in addition to all other applicable provisions of the Centerville Building Codes, Property Maintenance Ordinance, and other pertinent code or ordinance.

- C. The BAR, on its own initiative, may file a petition with the Director of Development or his appointed designee requesting that the City proceed to take action against any property owner which, in the opinion of the BAR, is in violation of any provision for maintenance contained in this ordinance.

Section 13. Limit on Re-Hearing the Same Application

The BAR or City Council shall not be required to hear or act upon any application which has been the subject of an application within the previous two years, unless the application has been modified at the request of the approving authority.

Section 14. Special Approval Review Procedures

All special approval review procedures contained in the Zoning Ordinance that applies to the Architectural Preservation District shall apply to all designated landmarks. In addition, when a designated landmark is located within a planned development zoning district, all review procedures contained in the Zoning Ordinance shall apply except that the BAR shall also review the application and recommend action to the City Council.

Section 15. Public Hearing

- A. The City Clerk of Council or appointed designee shall set the time, date, and place for each public hearing.
- B. A notice of a public hearing shall include the time, date, place, and a brief summary of the issue to be heard.
- C. A public hearing to amend this ordinance shall be conducted in accordance to the procedures for Public Hearings for a Rezoning or Amendment to the Zoning Ordinance contained in the Zoning Ordinance.
- D. A public hearing for a variance or appeal shall be conducted in accordance to the procedures for Public Hearings for a Variance or Appeal contained in the Zoning Ordinance.
- E. The failure of delivery of any notification of a public hearing shall not invalidate any ordinance, designation, measure, or regulation heard.

Section 16. Variances

- A. An application for a variance shall be filed in accordance to the standards and procedures contained in the Variance Section of the Zoning Ordinance, Centerville, Ohio.

- B. The BAR shall serve in the place of the Planning Commission where a requested variance(s) involves only questions pertaining to requirement(s) that are subject to Planning Commission Special Approval review and approval by the BAR as specified in the Architectural Preservation District Section of the Zoning Ordinance.

Section 17. Appeals

- A. Any person or persons, jointly or severally, aggrieved by the decision of any agent, agency, or body of the City in granting, granting with conditions or safeguards, or denying an application under the terms of this ordinance, or, any officer, department, board, or commission, of the City, may appeal such decision in the manner set out in this ordinance.
- B. An application for an appeal shall be filed with the City Clerk of Council no later than fifteen (15) days from the date of the ruling.
- C. An application for an appeal shall be filed in the manner prescribed by the Zoning Ordinance.
- D. Appeal of a Staff Decision or Interpretation
 - 1. The BAR shall hear an appeal made by any person claiming to be aggrieved by a decision of a staff person administering the provisions of this ordinance.
 - 2. The BAR shall hear and decide an appeal where it is alleged there is error of law in any interpretation, judgement, decision, or determination made by an administrative officer in the enforcement of this ordinance.
 - 3. The BAR shall hear and decide questions of interpretation of the meaning of the text of this ordinance.
- E. City Council shall hear and decide an appeal made by any person claiming to be aggrieved by a decision of the BAR or Planning Commission.
- F. Appeals of a City Council decision shall be in a manner set out in the laws of the State of Ohio.

Section 18. Penalties

- A. Whoever constructs, reconstructs, or alters any exterior architectural feature on any designated landmark in violation of this ordinance shall constitute a misdemeanor of the fourth (4th) degree. Each day such violation continues shall be considered a separate offense.
- B. Whoever demolishes, by willful action or by willful neglect, all or a substantial part of any designated landmark in violation of this ordinance shall constitute a misdemeanor and be fined not less than \$10,000.00 nor more than \$25,000.00.
- C. Whoever causes, by willful action or willful neglect, any alteration of or demolition of any designated landmark in violation of this ordinance shall be required to restore or reconstruct such building in accordance with the standards of this ordinance. Restoration or reconstruction shall be in addition to any criminal penalty and not in lieu thereof.
- D. Whoever causes, by willful action or willful neglect, the moving or demolition of any building determined by the City (even if after the fact) to have had potential landmark designated status in violation of the provisions of this ordinance shall be subject to all the penalties of this ordinance that would apply to the person if the building had already been determined by the City to be a landmark.
- E. The owner of a designated landmark or part thereof and any architect, builder, contractor, agent, tenant, or other person who commits, participates in, assists in or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

Section 19. Severability Clause

If any provision of this Ordinance is held invalid, such invalidity shall not affect the other provisions of this ordinance without the invalid provision and to this end the provisions of this ordinance are hereby declared severable.

Section 20. Schedule of Fees, Charges, and Expenses

- A. The City Council shall establish a schedule of fees, charges, and expenses and a collection procedure for any application, variance, appeal, and other matter pertaining to this ordinance. The schedule of fees may be altered or amended only by the City Council.

B. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

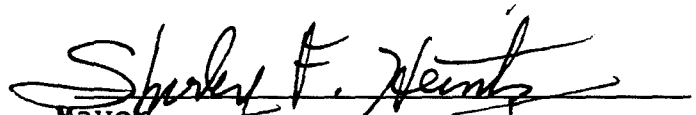
Section 21. Table of Designated Landmarks

Ordinance No. Date Passed Description

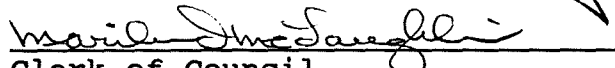
Section 22. Effective Date of Ordinance

This Ordinance shall become effective from and after the earliest date allowed by law.

PASSED THIS 17th DAY OF June, 1991.


Mayor
City of Centerville, Ohio

ATTEST:


Clerk of Council
City of Centerville, Ohio

CERTIFICATE

The undersigned, Clerk of Council of the City of Centerville, Ohio, hereby certifies the foregoing to be a true and correct copy of Ordinance No. 8-91, passed by the Council of the City of Centerville, Ohio, on the 17th day of June, 1991.

Marilene J. Laughlin
Clerk of Council

Approved in form and consistency with existing ordinances, the charter, and constitutional provisions.

Department of Law
Robert N. Farquhar
Municipal Attorney