

## ARTICLE IX. HISTORIC DISTRICTS\*

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\*Editor's note: Ord. No. 598, § 1, adopted September 5, 2000, amended the Code by repealing former art. IX, §§ 8-200--8-216, and adding a new art. IX, §§ 8-200--8-215. Former art. IX pertained to similar subject matter, and derived from Ord. No. 577, adopted May 3, 1999. The article was amended by Ord. No. 717, adopted August 2, 2010 making some changes and creating the Owosso Downtown Historic District.

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### Sec. 8-200. Short title.

This article shall be known and may be cited as the "historic districts ordinance." (Ord. No. 598, § 1, 9-5-00)

### Sec. 8-201. Definitions.

The following words, terms, and phrases, when used in this article shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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

*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 historic district commission created by the city pursuant to PA 169 of 1970 as amended.

*Committee* means a historic district study committee appointed by the city council.

*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.

*Department* means the department of history, arts and libraries. (Ord. No. 717, 8-2-10)

*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 (1) 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 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 of the city, county, state or the United States.

*Notice to proceed* means the written permission to issue a permit for work that is inappropriate and that adversely affects a resource, pursuant to a finding under Section 399.205(6) of Public Act 169 of 1970, as amended. (Ord. No. 717, 8-2-10)

*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 the purposes of this article. (Ord. No. 717, 8-2-10)

*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 a 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 act.

*Resource* means one (1) or more publicly or privately owned historic or non-historic buildings, structures, sites, objects, features, or open spaces located within a 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, a "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 or more single-station alarms that are capable of interconnection such that actuation of one alarm causes all integrated separate audible alarms to operate. (Ord. No. 717, 8-2-10)

*Work* means construction, addition, alteration, repair, moving, excavation, or demolition. The definition of work specifically excludes painting and ordinary maintenance. (Ord. No. 598, § 1, 9-5-00)

### **Sec. 8-202. Historic preservation as public purpose; purpose of article.**

Historic preservation is declared to be a public purpose and the city council may by ordinance regulate the construction, addition, alteration, repair, moving, excavation, and demolition of resources in historic districts within the city limits. The purpose of this article shall be to do one (1) or more of the following:

- (1) Safeguard the heritage of the city by preserving one (1) or more historic districts in the city that reflects elements of the unit's history, architecture, archaeology, engineering, or culture.
- (2) Stabilize and improve property values in each district and the surrounding areas by

protecting the value and preserving historic resources.

(3) Foster civic beauty.

(4) Strengthen the local economy.

(5) Promote the use of historic districts for the education, pleasure, and welfare of the citizens of the city and of the state.

(6) To take advantage of state tax credits available to owners of historic properties. (Ord. No. 598, § 1, 9-5-00)

**Sec. 8-203. Compliance required for construction, repair, demolition, etc.**

There shall be no work performed on a resource within any designated historic district, unless such action complies with the requirements set forth in this chapter. (Ord. No. 598, § 1, 9-5-00)

**Sec. 8-204. Historic districts; establishment; study committee; duties; public hearing; notice; actions; availability of writings to public.**

(a) The city, from time to time, may, by ordinance, establish one (1) or more historic districts. The historic district commission shall administer the historic districts. Before establishing a historic district, the city council shall appoint a historic district study committee. The committee shall contain a majority of persons who have a clearly demonstrated interest in or knowledge of historic preservation, and shall contain representation from one (1) or more duly organized local historic preservation organizations. The committee shall do all of the following:

(1) Conduct a photographic inventory of resources within each proposed historic district following procedures established or approved by the center.

(2) Conduct basic research of each proposed historic district and the historic resources located within that district.

(3) Determine the total number of historic and nonhistoric resources within a proposed historic district and the percentage of historic resources of that total. In evaluating the significance of historic resources, the committee shall be guided by the selection criteria for evaluation issued by the United States Secretary of the Interior for inclusion of resources in the National Register of Historic Places, as set forth in 36 CFR part 60, and criteria established or approved by the center, if any.

(4) Prepare a preliminary historic district study committee report that addresses at a minimum all of the following:

a. The charge of the committee.

b. The composition of the committee membership.

c. The historic district or districts studied.

d. The boundaries for each proposed historic district in writing and on maps.

- e. The history of each proposed historic district.
  - f. The significance of each district as a whole, as well as a sufficient number of its individual resources to fully represent the variety of resources found within the district, relative to the evaluation criteria.
- (5) Transmit copies of the preliminary report for review and recommendations to the local planning body, to the center, to the Michigan Historical Commission, and to the state historic preservation review board.
- (6) Make copies of the preliminary report available to the public.
- (b) Not less than sixty (60) calendar days after the transmittal of the preliminary report, the committee shall hold a public hearing in compliance with Act No. 267 of the Public Acts of 1976, as amended, being MCL sections 15.261 to 15.275. Public notice of the time, date, and place of the hearing shall be given in the manner required by Act No. 267 of the Public Acts of 1976, as amended. Written notice shall be mailed by first-class mail not less than fourteen (14) calendar days before the hearing to the owners of properties within the proposed historic district, as listed on the tax rolls of the city.
- ©) After the date of the public hearing, the committee and the city council shall have not more than one (1) year, unless otherwise authorized by the city council, to take the following actions:
- (1) The committee shall prepare and submit to the city council a final report with its recommendations and the recommendations, if any, of the historic district commission and the planning commission. If the recommendation is to establish a historic district or districts, the final report shall include a draft of a proposed ordinance or ordinances.
  - (2) After receiving a final report that recommends the establishment of a historic district or districts, the city council, at its discretion, may introduce and pass or reject an ordinance or ordinances. If the city council passes an ordinance or ordinances establishing one (1) or more historic districts, the city council shall file a copy of that ordinance or those ordinances, including a legal description of the property or properties located within the historic district or districts, with the register of deeds. The city council shall not pass an ordinance establishing a contiguous historic district less than sixty (60) days after a majority of the property owners within the proposed historic district, as listed on the tax rolls of the local unit, have approved the establishment of the historic district pursuant to a written petition. (Ord. No. 598, § 1, 9-5-00)

**Sec. 8-205. Historic district commission; establishment; appointment, qualifications, and terms of members; vacancy.**

In order to execute the purposes of this article, the city council hereby appoints a historic district commission to serve as the governing body.

Each member of the commission shall reside within the city. The membership of the historic district commission shall consist of not less than seven (7) or more than nine (9) members. A majority of the members shall have a clearly demonstrated interest in or knowledge of historic preservation. The mayor, with the approval of the city council, shall appoint the members. Initial members shall be appointed within six (6) months after the ordinance establishing the commission is enacted. Members shall be appointed for three-year terms except the initial appointments of some of the members shall be for less than three (3) years so that the initial appointments are staggered and that subsequent appointments do not

recur at the same time. Members shall be eligible for reappointment. A vacancy on the commission shall be filled within sixty (60) calendar days by an appointment made by the appointing authority. The city council shall appoint at least one (1) member from a list of citizens submitted by one (1) or more duly organized local historic preservation organizations. The commission shall include as a member, if available, 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. (Ord. No. 598, § 1, 9-5-00)

**Sec. 8-206. Rules of procedure; compensation; meetings; freedom of information.**

(a) The commission shall adopt rules governing its procedure and the holding of regular meetings, subject to the approval of the city council. Special meetings may be held when called in the manner provided in the rules of the commission.

(b) The business that the commission may perform shall be conducted at a public meeting of the commission held in compliance with the Open Meetings Act, Act No. 267 of the Public Acts of 1976, as amended, being MCL sections 15.261 to 15.275. 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.

©) The members of the commission shall serve without compensation.

(d) The commission shall 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, being MCL sections 15.231 to 15.246 (Ord. No. 598, § 1, 9-5-00)

**Sec. 8-207. Duties and powers.**

It shall be the duty of the commission to review all plans for work in the historic district, and the commission shall have the power to pass upon such plans before a permit for such activity can be granted. In reviewing the 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 CFR Part 67, or their equivalent as approved and established by the Michigan Historical Center of the Department of State.

Nothing in this section shall bar the commission from meeting in an emergency session should there occur a severe and imminent threat to the health, safety, welfare of the public when two-thirds ( 2/3) of the commission members decide that delay would be detrimental to efforts to lessen or respond to the threat. (Ord. No. 598, § 1, 9-5-00)

**Sec. 8-208. Permit required; completed application; certificate of appropriateness or notice to proceed; issuance; permit fee; appeal to review board and circuit court; plan review standards, guidelines and considerations; scope of review; preservation plan; approval; conditions; availability of writings to public; approval of minor work; finding of demolition by neglect; restoration or modification of work done without permit.**

(a) A permit shall be obtained before any work affecting the exterior appearance of a resource is performed within a historic district or, if required under subsection (d), work affecting the interior arrangements of a resource is performed within a historic district. The person, individual, partnership, firm, corporation, organization, institution, or agency of government proposing to do that work shall

file an application for a permit with the city building official. The building official shall immediately refer the application, together with all required supporting materials that make the application complete, to the commission. A permit shall not be issued and proposed work shall not proceed until the commission has acted on the application by issuing a certificate of appropriateness or a notice to proceed as prescribed in this ordinance. Applicants shall pay the normal permit fee.

(b) An applicant aggrieved by a decision of a commission concerning a permit application may file an appeal with the state historic preservation review board of the Michigan Historical Commission within the Department of State. The appeal shall be filed within sixty (60) days after the decision is furnished to the applicant. The appellant may submit evidence or arguments in written form, which the review board shall consider at its first regularly scheduled meeting after receiving the appeal. There is no charge or 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 county circuit court.

©) 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 CFR 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 center.

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.
- (5) Whether the applicant has certified in the application that the property where the work will be undertaken has, or will have, before the proposed project completion date, a fire alarm system or a smoke alarm system complying with the requirements of the Stille-DeRossett-Hale single state construction code act of 1972 (MCL 12.1501 to 125.1531). (Ord. No. 717, 8-2-10)

(d) The commission shall review and act upon only exterior features of a resource and shall not review and act upon interior arrangements unless interior work will cause visible change to the exterior of the resource. The commission shall not disapprove an application due to considerations not prescribed in subsection ©).

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

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

the 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, financing, and environmental clearances.

(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.

(g) The commission may delegate the issuance of certificates of appropriateness for specified minor classes of work to its staff, to the building official, or to another delegated authority. The commission shall provide to the delegated authority specific written standards for issuing certificates of appropriateness under this subsection. On at least a quarterly basis, the commission shall review the certificates of appropriateness, if any, issued for work by its staff, the building official, or another authority to determine whether or not the delegated responsibilities should be continued.

(h) Upon a finding by a 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 city council as a special assessment against the property. The commission or its agents may enter the property for purposes of this section upon obtaining an order from the circuit court.

(I) 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 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. (Ord. No. 598, § 1, 9-5-00)

**Sec. 8-209. Grants, gifts, and programs.**

The city may accept state or federal grants for historic preservation purposes, may participate in state and federal programs that benefit historic preservation, and may accept public or private gifts for historic preservation purposes. The historic district commission is hereby appointed the agent to accept and administer grants, gifts, and program responsibilities. (Ord. No. 598, § 1, 9-5-00)

**Sec. 8-210. Historic resource; acquisition by local legislative body.**

If all efforts by the commission to preserve a resource fail, or if it is determined by the city council body that public ownership is most suitable, the city council, 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 commission or standing committee. The commission or entity appointed by the city council is responsible for maintaining publicly owned resources using its own funds, if not specifically designated for other purposes, or public funds committed for that use by the city council. Upon recommendation of the commission or entity appointed by the city council, the city may sell resources acquired under this section with protective easements included in the property transfer documents, if appropriate. (Ord. No. 598, § 1, 9-5-00)

**Sec. 8-211. Historic district commission; filings with delegated authority; duties of local public officials, employees, and Michigan Historical Center.**

The commission shall file certificates of appropriateness, notices to proceed, and denials of applications for permits with the city building official. A permit shall not be issued until the commission has acted as prescribed by this act. If a permit application is denied, the decision shall be binding on the building official or other authority. A denial shall be accompanied with a written explanation by the commission of the reasons for denial and, if appropriate, a notice that an application may be resubmitted for commission review when suggested changes have been made. The denial shall also include notification of the applicant's rights of appeal to the state historic preservation review board and to the circuit court. The failure of the commission to act within sixty (60) calendar days after the date a complete application is filed with the commission, unless the applicant and the commission agree upon an extension in writing, shall be considered to constitute approval.

Local public officials and employees shall provide information and records to committees, commissions, and standing committees, and shall meet with those bodies upon request to assist with their activities. (Ord. No. 598, § 1, 9-5-00)

**Sec. 8-212. Ordinary maintenance.**

Nothing in this act shall be construed to prevent ordinary maintenance or repair of a resource within a historic district, or to prevent work on any resource under a permit issued by the city building official or other duly delegated authority before the ordinance was enacted. (Ord. No. 598, § 1, 9-5-00)

**Sec. 8-213. Appeal of commission decisions.**

(a) An applicant aggrieved by a decision of the commission concerning a permit application may file an

appeal with the State Historic Preservation Review Board. The appeal shall be filed within sixty (60) calendar 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 State Historic Preservation Review Board shall consider an appeal at its first regularly scheduled meeting after receiving the appeal. 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.

(b) Any citizen or duly organized historic preservation organization in the city of Owosso, as well as resource property owners, jointly or severally aggrieved by a decision of the historic district commission may appeal the decision to the circuit court, except that a permit applicant aggrieved by a decision rendered under this article may not appeal to the court without first exhausting the right to appeal to the State Historic Preservation Review Board. (Ord. No. 717, 8-2-10)

**Sec. 8-214. Establishing, modifying, or eliminating historic districts; study committee; considerations; review of applications within proposed historic district; emergency moratorium.**

(a) The city council may at any time establish by ordinance additional historic districts, including proposed districts previously considered and rejected, may modify boundaries of an existing historic district or may eliminate an existing historic district. Before establishing, modifying, or eliminating a historic district, a historic district study committee appointed by the city council shall comply with the procedures set forth herein and shall consider any previously written committee reports pertinent to the proposed action. To conduct these activities, the city council may retain the initial committee, establish a standing committee, or establish a committee to consider only specific proposed districts and then be dissolved.

(b) If considering elimination of a historic district, a committee shall follow the procedures set forth herein for issuing a preliminary report, holding a public hearing, and issuing a final report but with the intent of showing one (1) or more of the following:

- (1) The historic district has lost those physical characteristics that enabled establishment of the district.
- (2) The historic district was not significant in the way previously defined.
- (3) The historic district was established pursuant to defective procedures.

©) Upon receipt of substantial evidence showing the presence of historic, architectural, archeological, engineering, or cultural significance of a proposed historic district, the city council, at its discretion, may adopt a resolution requiring that all applications for permits within the proposed historic district be referred to the commission as prescribed herein. The commission shall review permit applications with the same powers that would apply if the proposed historic district was an established historic district. The review may continue in the proposed historic district for not more than one (1) year, or until such time as the city council approves or rejects the establishment of the historic district by ordinance, whichever occurs first.

(d) If the city council determines that pending work will cause irreparable harm to resources located within an established historic district or a proposed historic district the legislative body may by resolution declare an emergency moratorium of all such work for a period not to exceed six (6) months. The legislative body may extend the emergency moratorium for an additional period not to exceed six (6) months upon finding that the threat of irreparable harm to resources is still present.

Any pending permit application concerning a resource subject to an emergency moratorium may be summarily denied. (Ord. No. 598, § 1, 9-5-00)

**Sec. 8-215. Violation; fine; payment of costs.**

A person, individual, partnership, firm, corporation, organization, institution, or agency of government, including the historic district commission, that violates this act is responsible for a civil violation and may be fined not more than five thousand dollars (\$5,000.00).

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. (Ord. No. 598, § 1, 9-5-00)

**Sec. 8-216. Owosso Downtown Historic District.**

The Owosso Downtown Historic District shall be described as follows:

The plat of J.H. Calkins Subdivision of Reserve Number 7 of the City of Owosso, also the following blocks in the Original Plat of the Village, now City of Owosso, 11, 12, 14, 15, 16, 21, 22, 23, 24, 25, 26, Lots 11 through 18 in block 27, that portion of Reserve No. 1 and 2 south and west of the following described line, beginning at a point on the west line of Water Street where the north line of Mason Street, if extended, intersects said west line, then north along the west line of Water Street 326 feet, thence west parallel with the south line of William Street 143.8 feet thence south 62 feet parallel with the west line of Water Street, thence east parallel with the south line William Street 38 feet thence south parallel with the west line of Water Street 110 feet, thence west parallel with the south line of William Street 80 feet, thence north parallel to the west line of Water Street 110 feet, thence west parallel to the south line of William Street 292.7 feet thence south to the east bank of the Shiawassee River, and that portion of Reserve No. 3 that is north and west of a line perpendicular to the southwest line of Water Street that intersects the south line of Comstock Street and the Northeast line of Water Street and extends to the Shiawassee River. Also lots 8, 7, 3, and the west ½ of lot 2 in Block 17, and the west 82' of lot 11, and the west 82' of the south 33' of lot 10 in Block 10. This description also includes all street and alley right of ways in and adjoining these blocks and Reserves. Approximately 44.6 Acres.

A map of the Owosso Downtown Historic District is attached as Exhibit A. (Ord. No. 717, 8-2-10)

Editor's note: Ord. No. 604, creating the Oliver Street Historic District, adopted December 4, 2000, from which former § 8-216 derived, was repealed by a vote of the electors of the city on August 14, 2001.