

# **ORDINANCE # 50**

## **HISTORIC PRESERVATION ORDINANCE**

### **ARTICLE I. PURPOSE AND INTENT**

It is hereby declared a matter of public policy that the protection, enhancement, perpetuation and use of improvements, sites or objects of special character or special architectural, archeological, aesthetic or historic interest or other significant value is a public necessity and is required in the interest of the health, prosperity, safety and welfare of the people. The purpose of this ordinance is to:

- A. Effect and accomplish the protection, enhancement and preservation of such improvements, sites, objects and districts which represent or reflect elements of the city's cultural, social, economic, political and architectural history, or which are particularly unique to the city.
- B. Safeguard the city's historic and cultural heritage, as embodied and reflected in such historic structures, sites, objects and districts.
- C. Stabilize and improve property values and enhance the visual and aesthetic character of the city.
- D. Protect and enhance the city's attractions to residents, tourists and visitors and serve as a support and stimulus to business and industry.

### **ARTICLE II. DEFINITIONS**

The definitions shall be as follows:

- A. Certificate of Appropriateness means the certificate issued by the Fountain City Planning Committee approving alteration, rehabilitation, construction, reconstruction or demolition of a historic structure, historic site, historic object or any improvement in a historic district.
- B. Historic district is an area designated by the Common Council on recommendation of the Fountain City Planning Committee, that contains two or more historic improvements or sites.
- C. Historic site means any parcel of land of historic significance due to a substantial value in tracing the history or prehistory of man, or upon which a historic event has occurred, and which has been designated as a historic site under this ordinance, or an improvement parcel, or part thereof, on which is situated a historic structure and any

abutting improvement parcel, or part thereof, used as and constituting part of the premises on which the historic structure is situated.

D. Historic structure means any improvement which has a special character or special historic interest or value as part of the development, heritage or cultural characteristics of the city, state or nation and which has been designated as a historic structure pursuant to the provisions of this ordinance.

E. Improvements means any building, structure, place, work of art or other object constituting a physical betterment of real property, or any part of such betterment, including streets, alleys, sidewalks, curbs lighting fixture, signs and the like.

F. Objects with a special character means any object which is unique to Fountain City or which has a special character or value as part of the development, heritage or cultural characteristics of the city, state, or nation and which has been designated as an object with special character pursuant to the provisions of this ordinance.

### **ARTICLE III. FOUNTAIN CITY PLANNING COMMITTEE**

The Fountain City Planning Committee is hereby given the oversight of this ordinance as one of its functions.

### **ARTICLE IV. HISTORIC STRUCTURE, SITE, OBJECT WITH SPECIAL CHARACTER AND HISTORIC DISTRICT DESIGNATION CRITERIA**

A. For purposes of this ordinance, a historic structure, historic site, object with special character or historic district designation may be placed on any site, natural or improved, including any building improvement or structure located thereon, or any area of particular historic, architectural, archaeological or cultural significance to the city such as historic structures, sites, object or districts which:

1. Exemplify or reflect the broad cultural, political, economic or social history of the nation, state or community; or
2. Are identified with historic personages or with important events in national, state or local history; or
3. Embody the distinguishing characteristics of an architectural type or specimen inherently valuable for a study of a period, style, method of construction, or of indigenous materials or craftsmanship; or
4. Are representative of the notable work of a master builder, designer or

architect who influences his age; or

5. Have yielded or may be likely to yield, information important to prehistory or history; or

6. Is an object which is unique to Fountain City or which has a special character or value as part of the development, heritage or cultural characteristics of the city.

- B. The Fountain City Planning Committee shall adopt specific operating guidelines for historic structure, historic site, object with special character and historic district designation providing such are in conformance with the provisions of this ordinance.

## **ARTICLE V. POWERS AND DUTIES.**

- A. Designation.

The Fountain City Planning Committee shall have the power, subject to Article IV, to designate structures, historic sites, objects with a special character and to recommend designation of historic districts within the city limits. Such designation shall be made based on Article IV. Historic districts shall be approved by the Common Council. Once designated, such historic structures, sites, objects with a special character and districts shall be subject to all the provisions of this ordinance.

- B. Regulation of Construction, Reconstruction, Alteration and Demolition.

1. No owner or person in charge of a historic structure, historic site, object with a special character or structure within a historic district shall reconstruct, alter or demolish all or any part of the exterior of such property or construct any improvement upon such designated property or properties or cause or permit any such work to be performed upon such property or demolish such property unless a Certificate of Appropriateness has been granted by the Fountain City Planning Committee. Also, unless such certificate has been granted by the Fountain City Planning Committee, the building inspector shall not issue a permit for any such work.

2. Upon filing of any application for a Certificate of Appropriateness with the Fountain City Planning Committee, the Fountain City Planning Committee shall approve the application unless:

- a. In the case of a designated historic structure, historic site or object

with a special character, the proposed work would detrimentally change, destroy or adversely affect any exterior feature of the improvement, site, or object upon which said work is to be done;

b. In the case of the construction of a new improvement upon a historic site, or within a historic district, the exterior of such improvement would adversely affect or not harmonize with the external appearance of other neighboring improvements on such site or within the district;

c. In the case of any property located in a historic district, the proposed construction, reconstruction, exterior alteration or demolition does not conform to the purpose and intent of this ordinance and to the objectives and design criteria of the historic preservation plan for said district;

d. The building or structure is of such architectural or historical significance that its demolition would be detrimental to the public interest and contrary to the general welfare of the people of the city and state;

e. In the case of a request for the demolition of a deteriorated building or structure, any economic hardship or difficulty claimed by the owner is self-created or is the result of any failure to maintain the property in good repair.

3. If the Fountain City Planning Committee determines that the application for a Certificate of Appropriateness and the proposed changes are consistent with the character and features of the property or district, it shall issue the Certificate of Appropriateness. The Fountain City Planning Committee shall make this decision within forty-five (45) days of the filing of the application.

4. The issuance of a Certificate of Appropriateness shall not relieve the applicant from obtaining other permits and approvals required by the city. A building permit or other municipal permit shall be invalid if it is obtained without the presentation of the Certificate of Appropriateness required for the proposed work.

5. Ordinary maintenance and repairs may be undertaken without a Certificate of Appropriateness provided that the work involves repairs to existing features of a historic structure or site or the replacement of elements of a structure with pieces identical in appearance and provided that the work does not change the exterior appearance of the structure, site or object and does not require the

issuance of a building permit.

C. Appeals.

Should the Fountain City Planning Committee fail to issue a Certificate of Appropriateness due to the failure of the proposal to conform to the guidelines, the applicant may appeal such decision to the Common Council within thirty (30) days. In addition, if the Fountain City Planning Committee fails to issue a Certificate of Appropriateness, the Fountain City Planning Committee shall, with the cooperation of the applicant, work with the applicant in an attempt to obtain a Certificate of Appropriateness within the guidelines of this ordinance.

D. Recognition of Historic Structures, Sites, Objects with Special Character and Districts.

At such time as a historic structure, site, object with a special character or district has been properly designated, the Fountain City Planning Committee, in cooperation with the property owner, may cause to be prepared and erected on such property at city expense, a suitable plaque declaring that such property is a historic structure, site, object or district.

E. Regulation of Use and Grant of Conditional Permit.

1. The Common Council, after written application from the owner or person in charge of a designated historic site, historic structure or object with a special character and after public hearing, by a 3/4ths vote, may grant a Conditional Permit authorizing one or more of the following uses at the designated historic site, historic structure or object with a special character, notwithstanding any provision to the contrary in the Zoning Ordinances of the city:

- a. If in the Residential District: (1) paid admission to the historic site, historic structure or object with a special character; (2) sale of pictures and postcards depicting the historic site, historic structure or object with a special character; and (3) sale of other souvenirs depicting or directly related to the historic site, historic structure or object with a special character.
- b. If in the Agricultural District: (1) paid admission to the historic site, historic structure or object with a special character; (2) sale of pictures and postcards depicting the historic site, historic structure or object with a special character; and (3) sale of other souvenirs depicting or directly related to the historic site, historic structure or object with a special

character.

- c. If in the Commercial District: (1) paid admission to the historic site historic structure or object with a special character; and (2) commercial uses consistent with the historic use of the historic site, historic structure or object with a special character.
  - d. If in the Industrial District: (1) paid admission to the historic site, historic structure or object with a special character; and (2) commercial uses consistent with the historic use of the historic site, historic structure or object with a special character.
2. The filing fee for each Conditional Permit application shall be \$100.00 and shall be non-refundable whether or not the Conditional Permit is granted.
  3. The Common Council may place specific conditions and restrictions upon the Conditional Permit use of the historic site, historic structure or object with a special character. All such conditions and restrictions shall be completed and maintained in the time and manner designated on the Conditional Permit.
  4. The Common Council may, after notice any hearing, by majority vote, modify or revoke any Conditional Permit if the Common Council determines that either:
    - a. The owner or person in charge of the historic site, historic structure or object with a special character has failed to perform or comply with any of the conditions or restrictions of the Conditional Permit or is now in violation of any of the conditions or restrictions of the Conditional Permit; or
    - b. Even though in compliance, the Conditional Permit use interferes with the use and character of the adjoining properties in the same zoning district.

## **ARTICLE VI. PROCEDURES.**

- A. Designation of Historic Structures, Historic Sites and Objects with a Special Character.
  1. The Fountain City Planning Committee may, after notice and public hearing, designate historic structures and objects with a special character, historic sites or rescind such designation or recommendation, after application of the criteria in Article IV above. At least ten (10) days prior to such hearing the Fountain City Planning Committee shall notify the owners of record, as listed in the office of the city assessor, who are owners of property in whole or in part situated within

two hundred (200) feet of the boundaries of the property affected.

2. The Fountain City Planning Committee shall then conduct such public hearing and, in addition to the notified persons, may hear expert witnesses and shall have the power to subpoena such witnesses and records as it deems necessary. The Fountain City Planning Committee may conduct an independent investigation into the proposed designation or rescission. Within ten (10) days after the close of the public hearing, the Fountain City Planning Committee may designate the property as either a historic structure, a historic site, an object with a special character or rescind the designation. After the designation or rescission has been made, notification shall be sent to the property owner or owners. Notification shall also be given to the City Clerk, Building Inspection Division and the City Assessor. The Fountain City Planning Committee shall cause the designation or rescission to be recorded, at city expense, in the County Register of Deeds office.

B. Creation of Historic District.

1. For preservation purposes, the Fountain City Planning Committee shall select geographically defined areas within the city to be designated as Historic Districts and shall prepare a historic preservation plan for each area. A Historic District may be designated for any geographic area of particular historic, architectural or cultural significance to the city, after application of the criteria in Article IV above. Each historic preservation plan prepared for or by the Fountain City Planning Committee shall include a cultural and architectural analysis supporting the historic significance of the area, the specific guidelines for development, and a statement of preservation objectives.
2. Review and Adoption Procedure.
  - a. Fountain City Planning Committee. The Fountain City Planning Committee shall hold a public hearing when considering the plan for a Historic District. Notice of the time, place and purpose of the public hearing shall be sent by the City Clerk to the Alderman of the Aldermanic District or Districts in which the Historic District is located, and the owners of record, as listed in the office of the City Assessor, who are owners of the property within the proposed Historic District or are situated in whole or in part within two (200) hundred feet of the boundaries of the proposed Historic District. Said notice is to be sent at least ten (10) days prior to the date of the public hearing. Following the public hearing, the Fountain City Planning Committee shall vote to

recommend, reject or withhold action on the plan.

- b. The Common Council. The Common Council, upon receipt of the recommendations from the Fountain City Planning Committee shall hold a public hearing, notice to be given as noted in subparagraph a. above and shall following the public hearing either designate or reject the Historic District. Designation of the Historic District shall constitute adoption of the plan prepared for that district and direct the implementation of said plan.

#### **ARTICLE VII. INTERIM CONTROL.**

No building permit shall be issued by the building inspector for alterations, construction, demolition or removal of a nominated historic structure, historic site, objects with a special character or any property or structure within a nominated historic district from the date of the meeting of the Fountain City Planning Committee at which a nomination form is first presented until the final disposition of the nomination by the Fountain City Planning Committee or the City Council unless such alteration, removal or demolition is authorized by formal resolution of the City Council as necessary for public health, welfare or safety. In no event shall the delay be for more than one hundred either (180) days.

#### **ARTICLE VIII. PENALTIES FOR VIOLATIONS.**

Any person firm or corporation who violates any provision of this ordinance shall be subject to penalty. Notice of violations of this ordinance shall be issued by the building inspector or law enforcement officers of the City of Fountain City, Wisconsin. The building inspector or law enforcement officer shall promptly report all violations to the city attorney, who shall bring action to enjoin the violation.

Any person, firm or corporation who violates, disobeys, neglects, omits or refuses to comply with, or who resists the enforcement of any of the provisions of this ordinance shall also be required, upon conviction, to forfeit the sum of Fifty (\$50.00) Dollars for the first offense and the sum of One Hundred (\$100.00) Dollars for the second and each subsequent offense, together with the costs of prosecution, and in default of payment of such forfeiture and costs of prosecution, shall be imprisoned in the county jail of buffalo County until said forfeiture and costs are paid, but not to exceed 30 days for each violation. Each day that a violation continues to exist shall constitute a separate offense. After a person, firm or corporation receives a citation, (s) he or it shall have twenty-four (24) hours to correct whatever caused the original issuance of the citation or be liable for additional citations for each successive twenty-four (24) hour period that the problem goes uncorrected.



## **ARTICLE IX. ENFORCEMENT BY CITATION.**

- A. Authorization and adoption of enforcement by citation. The City Council hereby Adopts and authorizes the use of a citation to be issued for all violations of this ordinance.
  
- B. Form of citation. The form of citation shall provide for the following:
  - 1. The name and address of the alleged violator.
  - 2. The factual allegations describing the alleged violation.
  - 3. The time and place of offense.
  - 4. The section of the ordinance violated.
  - 5. A designation of the offense in such manner as can be readily understood by a person making a reasonable effort to do so.
  - 6. The time at which the alleged violator may appear in court. The court of record shall be the Buffalo County Court, Civil Branch, Courthouse, Alma Wisconsin.
  - 7. A statement which in essence informs the alleged violator:
    - a. That the alleged violator may make a cash deposit of a specified amount to be mailed to the Buffalo County Clerk of Court, Courthouse, 407 South Second, Alma WI 54610, within fifteen (15) days of the date of the citation.
    - b. That, if the alleged violator makes such a deposit, he or she need not appear in court unless subsequently summoned.
    - c. That, if the alleged violator makes a cash deposit and does not appear in court, either he or she will be deemed to have tendered a plea of no contest and submitted to a forfeiture, a penalty assessment imposed by s. 165.87 and a jail assessment imposed by s. 302.46(1) not to exceed the amount of deposit or will be summoned into court to answer the complaint if the court does not accept the plea of no contest.
    - d. That, if the alleged violator does not make a cash deposit and does not appear in court at the time specified, an action may be commenced against the alleged violator to collect the forfeiture, the penalty assessment imposed by s. 165.87 and the jail assessment imposed by s. 302.46(1).
  - 8. A direction that, if the alleged violator elects to make a cash deposit, the alleged

violator shall sign an appropriate statement which accompanies the citation to indicate that he or she read the statement required under subd. 7. above and shall send the signed statement with the cash deposit.

9. Such other information as may be deemed necessary.
- C. Who may issue citations. The building inspector and law enforcement officers of the City of Fountain City, Wisconsin, are authorized to issue citations for all violations of this ordinance.
- D. Additional costs and penalties. In addition to the basic penalties in the various ordinances listed above, the violator shall pay a penalty assessment imposed by Wis. Stats. Sec. 165.87, a jail assessment imposed by Wis. Stats. Sec 302.46(1) and all court costs and assessments.
- E. Where penalties and costs paid. All penalties and costs imposed as a result of a violation of any provision of the ordinances listed above and all deposits shall be paid to the Buffalo County Clerk of Court, Courthouse, 407 South Second, Alma WI 54610.
- F. Receipts for cash deposits. All persons who make cash deposits to cover payment for penalties and costs imposed for violations of the ordinances listed above shall be given a receipt therefore.

#### **ARTICLE X. SEPARABILITY.**

If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, the remainder of this ordinance and the application of such provisions to other persons or circumstances shall not be affected thereby.

#### **ARTICLE XI. EFFECTIVE DATE.**

This ordinance shall be in force and effect upon its passage, posting and/or publication as required by law.

Dated this 30<sup>th</sup> day of August, 1995.

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Carl Brommerich, Mayor

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Janet LaDuke, Clerk-Treasurer

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This Ordinance was unanimously passed and adopted at a regular meeting of the Common Council of the City of Fountain City, Wisconsin, on August 30, 1995.