

ORDINANCE 2022-06_____
OF THE TOWN OF ZIONSVILLE, BOONE COUNTY, INDIANA

**AN ORDINANCE ESTABLISHING THE HISTORIC PRESERVATION
COMMISSION OF THE TOWN OF ZIONSVILLE, INDIANA AND
MATTERS RELATED THERETO**

WHEREAS, the Town Council of the Town of Zionsville, Indiana (“Town Council”), declares that the protection of maintenance, restoration, rehabilitation, reconstruction, or development of certain historic homes located in the Town of Zionsville (“Town”) is in the public interest and provides a community benefit to the Town; and,

WHEREAS, it is the intent of this Ordinance to establish a Historic Preservation Commission (“Commission”) as allowed under Ind. Code § 36-7-11 *et. seq.* to provide a recommendation(s) to the Town Council for a Historic District(s) to be known as a Conservation District of the Town to ensure such historic or architecturally worthy homes are not demolished and their structural integrity preserved in a geographical area of the Town that has been identified in the recommendation by the Commission and approved or revised by the Town Council; and,

WHEREAS, it is the intent of this Ordinance to establish a process for the Commission to meet to review and establish such a recommendation of a Conservation District(s) and if approved, to allow the Commission to implement a program of historic preservation of any such Conservation District(s) in accordance with the procedure and provisions required by Ind. Code § 36-7-11 *et seq.* and as set forth below.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Town Council of the Town Of Zionsville, Boone County, Indiana:

Section 1. Purpose

It is the intention of the Town to preserve and protect historic residential homes or architecturally worthy residential homes by establishing a Historic Preservation Commission (“Commission”) to identify such historic homes located in the Historic District(s) created in accordance with this Ordinance. It is not the intent of Town to establish a Historic District(s) with the creation of this Ordinance, but rather allow the Commission to survey the Town’s historic residential homes or architecturally worthy residential homes and make a formal recommendation to the Town Council which may include a proposal of a Historic District(s), which may or may not be approved by the Town Council. Any such Historic District shall be called a Conservation District and may only have the authority granted to any such Conservation District pursuant to Ind. Code. § 36-7-11 *et seq.* and as authorized by Conversation District Ordinance approved by the Town Council which may further restrict the Commission’s authority in accordance with Indiana Home Rule.

Section 2. Definitions.

The following terms shall have the following meaning unless a contrary meaning is required by the context or is specifically prescribed. Words in the present tense include the future tense. The singular number includes the plural, and the plural, the singular. The word “shall” is always mandatory. The word “person” includes a firm, a partnership, a limited liability company or a corporation, as well as an individual. Terms not defined in this Section shall have the meanings customarily assigned to them.

- a. **Alteration:** a material or color change in the external architectural features of any building, structure or site within a historic district.
- b. **Town:** the Town of Zionsville, Indiana.
- c. **Classifications:**
 - (1) **Outstanding:** the “O” classification means that the property has sufficient historic or architectural significance such that it is listed, or is eligible for individual listing, in the National Register of Historic Places (the “National Register”). Outstanding resources can be of local, state, or national importance.
 - (2) **Notable:** the “N” classification means that the property does not merit the outstanding rating, but it is still above average in its importance. A notable structure may be eligible for the National Register.
 - (3) **Contributing:** the “C” classification means that the property is at least 40 years old, but does not meet the criteria for an “O” or “N” classification. Contributing properties are important to the density or continuity of the area’s historic fabric. Contributing properties can be listed in the National Register only as part of a historic district.
 - (4) **Non-Contributing:** property classified as “NC” is not included in a historic sites and structures inventory unless it is located within the boundaries of a historic district. Such properties may be less than 50 years old, or they may be older properties that have been altered in such a way that they have lost their historic character, or they may be otherwise incompatible with their historic surroundings. These properties are not eligible for listing in the National Register.
- d. **Commission:** the Historic Preservation Commission established by this Ordinance.
- e. **Demolition:** the complete or substantial removal of any building or structure located in a historic district.
- f. **Historic District:** a single residentially-occupied building, structure, site, monument, streetscape, or square, or a concentration of residentially-occupied buildings, structures, sites, monuments, streetscapes, squares or neighborhoods, the boundaries of which are described or delineated on a map approved in an ordinance adopted by the Town Council. Historic Districts shall only include single family residentially-occupied buildings (or

improvements associated with single family residential dwellings) and not commercial, institutional or industrial buildings or areas.

g. **Interested Party:** means one of the following:

- (1) the Mayor of the Town of Zionsville.
- (2) the Town Council of the Town of Zionsville.
- (3) the Town Plan Commission or other agency having land use planning jurisdiction over a historic district designated by ordinance.
- (4) a neighborhood association, whether incorporated or unincorporated, a majority of whose members are residents of a historic district designated by an ordinance adopted by the Town Council.
- (5) an owner or occupant owning or occupying property located in a historic district established by an ordinance adopted by the Town Council.
- (6) Historic Landmarks Foundation of Indiana, Inc., or any of its successors.
- (7) the state historic preservation officer designated under Indiana Code § 14-21-1-19.

h. **Preservation Guidelines:** locally developed criteria which identify design concerns to assist property owners in maintaining the character of the historic district or buildings during the process of rehabilitation or new construction.

i. **Primary Area:** the principal area of historic and/or architectural significance within a historic district as delineated on the map establishing the boundaries of the historic district.

j. **Routine Maintenance:** work for which no Certificate of Appropriateness is required.

k. **Secondary Area:** an area in a historic district as delineated on the map establishing the boundaries of the historic district that is adjacent to a primary area and which has a visual relationship to the primary area and could affect the preservation of the primary area. The purpose of designating a secondary area is to assure its compatibility and harmony with an adjacent, primary area.

l. **Streetscape:** appearance from a public way, the distinguishing characteristics of which are created by the width of the street and sidewalks, their paving materials and color, the design of the street furniture (e. g., street lights, trash receptacles, benches, etc.) use of plant materials such as trees and shrubs, and the setback, mass, and proportion of those buildings which enclose the street.

m. **Visual Compatibility:** those elements of design that meet the guidelines set out in Section 9 of this ordinance.

n. **Public Way:** Any publically dedicated street, pathway, or sidewalk from which the features of a residential building or an accessory building or structure are subject to public view. Alleys are not considered to be public ways for purposes of this Ordinance.

Section 3. Historic Preservation Commission Establishment and Organization

a. **Establishment.** There is hereby established the Historic Preservation Commission of the Town of Zionsville, Indiana (hereinafter referred to as the “Commission”).

b. **Composition; Appointment.** The Commission shall consist of five (5) voting members. As required by Ind. Code § 36-7-11-4, the voting members shall be appointed by the Mayor, subject to the approval of the Town Council, and shall be residents of the Town who are interested in the preservation and development of historic areas. The Mayor must provide a recommendation of five (5) voting members to the Town Council within 60 days of the effective date of this Ordinance. Such recommendation shall provide for the member’s Term as outlined in subsection (c). The members of the Commission should include professionals in the disciplines of architectural history, planning, and other disciplines related to historic preservation, to the extent that those professionals are available in the community. Up to one (1) nonvoting, advisory member(s) may be appointed to the Commission by the Mayor with approval by the Town Council. Commission members shall serve without compensation, except for reasonable expenses incurred in the performance of their duties.

c. **Term.** Voting members shall each serve for a term of three (3) years; however, the terms of original voting members shall be for one (1) year, two (2) years, and three (3) years in order for the terms to be staggered. The term for nonvoting, advisory members shall be for three (3) years. A vacancy shall be filled within ninety (90) days for the duration of the term. Upon expiration of the then current term, the Mayor may appoint a new member or reappoint an existing member for a new or additional term, subject to approval by the Town Council.

d. **Commission Administrator.** A Town administrator designated by the Mayor shall serve as the ex-officio administrator of the Commission. The administrator shall provide staff assistance to the Commission, act as the Commission’s secretary, and issue Certificates of Appropriateness as directed by the Commission.

e. **Officers.** The Commission shall elect from its membership a Chairperson and a Vice-Chairperson who shall serve for one (1) year and who may be reelected. The Commission Administrator shall serve as the Commission’s secretary.

f. **Rules.** The Commission shall adopt rules consistent with this Ordinance for the transaction of its business. The rules must include the time and place of regular meetings and a procedure for the calling of special meetings.

g. **Meetings.** All Commission meetings must be open to the public and at all times in compliance with Indiana Code § 5-14-1.5 *et seq.*. A public record must be kept of the Commission’s resolutions, proceedings, and actions and the Commission shall at all times

comply with Indiana Code § 5-14-3 *et. seq.*. The Commission shall hold regular meetings, at least monthly, except when it has no business pending. Special meetings may be called in a manner determined by the Commission and its rules.

h. **Final Decisions.** Pursuant to Ind. Code § 36-7-11-4(b)(h), a final decision of the Commission is subject to judicial review under Ind. Code. § 36-7-4 as if it were a final decision of the board of zoning appeals.

Section 4. Powers and Duties of the Commission

a. The Commission shall be concerned with those elements of development, redevelopment, rehabilitation, and preservation that affect visual quality of historic residential homes or architecturally worthy residential homes in a historic district. The Commission may not consider details of design, interior arrangements, or building features, if those details, arrangements, or features are not subject to public view, and may not make any requirement except for the purpose of preventing development, alteration, or demolition in a historic district obviously incongruous with the historic district.

b. The Commission shall conduct a survey to identify historic buildings, structures, and sites located within the Town. Based on its survey, the Commission shall submit to the Town Council a map describing the boundaries of a historic district or historic districts. A district may be limited to the boundaries of a property containing a single building, structure, or site (as defined in Section 2(f) of this Ordinance). The map may divide a district into primary and secondary areas. As noted in Section 5 below, any map developed by the Commission shall be recommended to the Town Council for review and approval, provided that no map may be used by the Commission without approval of Town Council.

c. The Commission shall also classify and designate on the map all buildings, structures, and sites within each historic district described on the map. Buildings, structures, and sites shall be classified as historic or non-historic in the manner set forth in subsections 4(d) and 4(e) of this Ordinance below.

d. Buildings, structures, and sites classified as historic must possess identified historic or architectural merit of a degree warranting their preservation. They may be further classified as Outstanding, Notable, or Contributing (as defined in Section 2 of this Ordinance).

e. Non-historic buildings and structures are those not classified on the map as historic under subsection 4(b) of this Ordinance.

f. The Commission may conduct additional surveys, and draw and submit additional maps for approval of the Town Council, as the Commission considers appropriate.

g. The Commission may recommendation preservation guidelines for architectural review of historic residential homes or architecturally worthy residential homes to the Town Council for review and approval if approved by the Town Council, any such, preservation guidelines shall be published and made readily accessible to the general public.

h. The Commission has the authority to receive funds in order to promote its stated purposes.

i. The Commission shall promote public interest in historic preservation by initiating and carrying on a public relations and community education program.

j. Each official of the Town who has responsibility for building inspection, building permits, planning, or zoning shall provide any technical, administrative, or clerical assistance requested by the Commission. The attorney for the Town is the attorney for the Commission.

Section 5. Historic Districts and Guidelines

a. **Town Council Approval of Maps of Historic Districts.** Before a historic district is established and the building classifications take effect, the map described in subsection 4(b) of this Ordinance, setting forth the historic district boundaries and building classifications, must be submitted by the Commission to, and approved in an ordinance by, the Town Council. The map establishing boundaries of a historic district shall be recorded in the Office of the Boone County Recorder.

b. **Conservation Districts.** Pursuant to Ind. Code § 36-7-11-19, in an ordinance approving the establishment of a historic district (known as a Conservation District), the Town Council may provide that the establishment shall occur in two (2) phases. During the first phase, which continues for a period of three (3) years from the date the ordinance is adopted, a certificate of appropriateness is required only for the following activities: the demolition of any building; the moving of any building; and any new construction of a principal building or accessory building or structure subject to view from a public way. Areas in this first phase are commonly referred to as a “Conservation District(s).” At the end of the first phase, the district becomes fully established, and, subject to subsection 5(c) of this ordinance, a Certificate of Appropriateness must be issued by the Commission before a permit may be issued for or work may begin on an activity described in subsection 7(a) of this Ordinance. Districts that have moved into this second phase are “Historic Districts.” The first phase described in subsection 5(b) of this Ordinance continues and the second phase does not become effective if a majority of the property owners in the district object to the Commission, in writing, to the requirement that Certificates of Appropriateness be issued for the following activities:

- (1) a conspicuous change in the exterior appearance of historic buildings by additions, reconstruction, alteration, or maintenance involving exterior color change;
- (2) a change in walls and fences or construction of walls and fences along public ways;
- (3) a conspicuous change in the exterior appearance of non-historic buildings subject to view from a public way by additions, reconstruction, alteration, or maintenance involving exterior color change.

The objections must be received by the Commission not earlier than one hundred eighty (180) days or later than sixty (60) days before the third anniversary of the adoption of the Ordinance.

c. An ordinance approving the establishment of a Conservation District shall exclude changes in paint colors from the activities requiring the issuance of a Certificate of Appropriateness before a permit may be issued or work begun.

d. An ordinance approving the establishment of a Conservation District and pursuant to Indiana Home Rule, may require any such Conservation District to sunset after three (3) years.

Section 6. Interim Protection

a. When submitting a map to the Town Council to create a historic district under this ordinance, the Commission may declare one (1) or more buildings or structures that are classified and designated as historic on the map to be under interim protection.

b. Not more than two (2) working days after declaring a building or structure to be under interim protection under this Section, the Commission shall, by personal delivery or first class mail, provide the owner or occupant of the building or structure with a written notice of the declaration. The written notice must:

- (1) Cite the authority of the Commission to put the building or structure under interim protection under this Section;
- (2) Explain the effect of putting the building or structure under interim protection; and
- (3) Indicate that the interim protection is temporary.

c. A building or structure put under interim protection under subsection 6(a) of this ordinance remains under interim protection until the map is:

- (1) Submitted to; and
- (2) Approved in an ordinance or rejected by the Town Council.

d. While a building or structure is under interim protection:

- (1) The building or structure may not be demolished or moved; and
- (2) The exterior appearance of the building or structure may not be conspicuously changed by:
 - (a) Addition;
 - (b) Reconstruction; or
 - (c) Alteration.

Section 7. Certificates of Appropriateness

a. **Certificates of Appropriateness Required.** A Certificate of Appropriateness must be issued by or on behalf of the Commission before a permit is issued for or work is begun on any of the following:

- (1) Within all areas of a historic district:
 - (a) The demolition of any building;
 - (b) The moving of any building;
 - (c) A conspicuous change in the exterior appearance of historic buildings by additions, reconstruction, alteration, or maintenance involving exterior color change; or
 - (d) Any new construction of a principal building or accessory building or structure subject to view from a public way.

- (2) Within a primary area of a historic district:
 - (a) A change in walls and fences or the construction of walls and fences along public ways; or
 - (b) A conspicuous change in the exterior appearance of non-historic buildings subject to view from a public way by additions, reconstruction, alteration or maintenance involving exterior color change.

- (3) Within the first phase of a two-phase establishment of a historic district (referred to as Conservation District) shall only require a Certificate of Appropriateness for the following:
 - (a) The moving of any building;
 - (b) The demolition of any building; or
 - (c) Any new construction of a principal building or accessory building or structure subject to view from a public way.

b. **Application for Certificates of Appropriateness.** Application for a Certificate of Appropriateness shall be made in the office of the Commission on forms provided by that office. Detailed drawings, plans, or specifications are not required. However, to the extent reasonably required for the Commission to make a decision, each application must be accompanied by sketches, drawings, photographs, descriptions, or other information showing the proposed exterior alterations, additions, changes, or new construction. The cost of the Application for a Certificate of Appropriateness shall be paid by the applicant at the time of submittal of the Application. The cost of the Application shall be calculated to cover the administrative and legal costs associated with the processing and consideration of the Application. The cost of the Application shall be reflected on the Town's Schedule of Fines and Fees, as it may be amended from time to time.

c. **Approval or Denial of Certificates of Appropriateness.** The Commission may advise and make recommendations to the applicant before acting on an application for a certificate of appropriateness. If an application for a Certificate of Appropriateness is approved by the Commission, or is not acted on by the Commission, within thirty (30) days after it is filed, a Certificate of Appropriateness shall be issued. If the certificate is issued, the application shall be processed in the same manner as applications for Improvement Location Permits required by

the Town, if any, are processed. If no Improvement Location Permits are required by the Town, the applicant may proceed with the work authorized by the certificate. If the Commission denies an application for a Certificate of Appropriateness within 30 days after it is filed, the certificate may not be issued. The Commission must state its reasons for the denial in writing, and must advise the applicant. An application that has been denied may not be processed as an application for an Improvement Location Permit and does not authorize any work by the applicant. The Commission may grant an extension of the thirty (30) day limit if the applicant agrees to it.

d. **Criteria for Considering Effect of Actions on Historic Buildings.** The Commission, in considering the appropriateness of any reconstruction, alteration, maintenance, or moving of a historic building or any part of or appurtenance to such building, including walls, fences, light fixtures, steps, paving, and signs shall require that such work be done in a manner that will preserve the historical and architectural character of the building, structure, or appurtenance. In considering historic and architectural character, the Commission shall consider, among other things, the following:

- (1) Purposes of this Ordinance;
- (2) Historical and architectural value and significance of the building, structure, site or appurtenance;
- (3) Compatibility and significance of additions, alterations, details, materials, or other non-original elements which may be of a different style and construction date than the original;
- (4) The texture, material, color, style, and detailing of the building, structure, site or appurtenance;
- (5) The continued preservation and protection of original or otherwise significant structure, material, and ornamentation;
- (6) The relationship of buildings, structures, appurtenances, or architectural features similar to one within the same historic district, including for primary areas, visual compatibility as defined in subsection 9(b) of this ordinance; and,
- (7) The position of the building or structure in relation to the street, public right-of-way and to other buildings and structures.

e. **Procedure for Demolition upon Denial of a Certificate of Appropriateness.** The purpose of this subsection is to preserve historic buildings that are important to the education, culture, traditions and economic values of the Town, and to afford the Town, historical organizations, and other interested persons the opportunity to acquire or to arrange for the preservation of these buildings. If a property owner shows that a historic building is incapable of earning an economic return on its value, as appraised by a qualified real estate appraiser, and the Commission fails to approve the issuance of a Certificate of Appropriateness, the building may be demolished pursuant to a demolition permit issued by the Planning Department of the Town. However, before a demolition permit is issued or demolition proceeds, the following requirements for notice must be met:

- (1) Notice of the proposed demolition must be given for a period fixed by the Commission, based on the Commission's classification on the approved map, but not less than sixty (60) days nor more than one (1) year.

- (2) Notice must be posted on the premises of the building proposed for demolition in a location clearly visible from the street.
- (3) Notice must be published in a newspaper of general local circulation at least three (3) times before demolition, with the first publication not more than fifteen (15) days after the application for a permit to demolish is filed, and the final publication at least fifteen (15) days before the date of the permit.

The Commission may approve a Certificate of Appropriateness at any time during the notice period under this subsection 7(e). If the certificate is approved, a demolition permit shall be issued without further delay by the Planning Department of the Town, and demolition may proceed.

Section 8. Staff Approvals

a. The staff of the Commission, on behalf of the Commission, may be authorized to grant or deny an application for a Certificate of Appropriateness for various types of activities, as determined by the Commission.

b. The staff of the Commission may not grant or deny an application for a Certificate of Appropriateness for the following types of applications:

- (1) The demolition of a building.
- (2) The moving of a building.
- (3) The construction of an addition to a building.
- (4) The construction of a new building.

Section 9. Visual Compatibility

a. **New Buildings and Non-historic Buildings.** Except as provided in subsection 5(d) of this Ordinance, the construction of a new building or structure, and the moving, reconstruction, alteration, major maintenance, or repair involving a color change conspicuously affecting the external appearance of any non-historic building, structure, or appurtenance within the primary area of a historic district must be generally of a design, form, proportion, mass, configuration, building material, texture, color, and location on a lot compatible with other buildings in the historic district, particularly with buildings designated as historic, and with squares and places to which it is visually related.

b. **Criteria for Considering Visual Compatibility.** Except as provided in subsection 5(d) of this Ordinance, within the primary area of a historic district, new buildings and structures, as well as buildings, structures, and appurtenances that are moved, reconstructed, materially altered, repaired, or changed in color, must be visually compatible with buildings, squares and places to which they are visually related generally in terms of the following visual compatibility factors:

- (1) **Height.** The height of proposed buildings must be visually compatible with adjacent buildings.

- (2) **Proportion of building's front façade.** The relationship of the width of a building to the height of the front elevation must be visually compatible to buildings, squares, and places to which it is visually related.
- (3) **Proportion of openings within the facility.** The relationship of the width of the windows to the height of windows in a building must be visually compatible with buildings, squares, and places to which it is visually related.
- (4) **Rhythm of solids to voids in front facades.** The relationship of solids to voids in the front facade of a building must be visually compatible with buildings, squares, and places to which it is visually related.
- (5) **Rhythm of spacing of buildings on streets.** The relationship of a building to the open space between it and adjoining buildings must be visually compatible to buildings, squares, and places to which it is visually related.
- (6) **Rhythm of entrances and porch projections.** The relationship of entrances and porch projections to sidewalks of a building must be visually compatible to buildings, squares, and places to which it is visually related.
- (7) **Relationship of materials, texture, and color.** The relationship of the materials, texture, and color of the facade of a building must be visually compatible with the predominant materials used in the buildings to which it is visually related.
- (8) **Roof shapes.** The roof shape of a building must be visually compatible with the buildings to which it is visually related.
- (9) **Walls of continuity.** Appurtenances of a building such as walls, wrought iron fences, evergreen landscape masses, and building facades, must form cohesive walls of enclosure along the street, if necessary to ensure visual compatibility of the building to the buildings, squares, and places to which it is visually related.
- (10) **Scale of a building.** The size of a building, and the building mass of a building in relation to open spaces, windows, door openings, porches, and balconies must be visually compatible with the buildings, squares, and places to which it is visually related.
- (11) **Directional expression of front elevation.** A building must be visually compatible with buildings, squares, and places to which it is visually related in its directional character, including vertical character, horizontal character, or non-directional character.

Section 10. Preservation of Historical and Architectural Character upon Alteration or Relocation Mandated

a. A historic building or structure or any part of or appurtenance to such a building or structure, including stone walls, fences, light fixtures, steps, paving, and signs may be moved, reconstructed, altered, or maintained only in a manner that will preserve the historical and architectural character of the building, structure, or appurtenance.

b. A historic building may be relocated to another site only if it is shown that preservation on its current site is inconsistent with subsection 10(a) of this Ordinance.

Section 11. Maintenance

a. Historic buildings shall be maintained to meet the applicable requirements established under state statute for buildings generally so as to prevent the loss of historic material and the deterioration of important character defining details and features.

b. Ordinary repairs and maintenance: nothing in this Section shall be construed to prevent the ordinary repairs and maintenance of any historic building, provided that such repairs or maintenance do not result in a conspicuous change in the design, form, proportion, mass, configuration, building material, texture, color, location, or external visual appearance of any structure, or part thereof.

Section 12. Relationship with Zoning Districts

Zoning districts lying within the boundaries of the historic district are subject to the regulations for both the zoning district and the historic district. If there is a conflict between the requirements of the zoning district and the requirements of the historic district, the more restrictive requirements apply.

Section 13. Removal of Historic District Designation

a. This Section provides the exclusive method for removing the designation of a historic district.

b. The owner or owners of a building, structure, or site designated as a single site historic district may sign and file a petition with the Town Council requesting removal of the designation of the building, structure, or site as a historic district. In the case of a historic district containing two (2) or more parcels, at least sixty percent (60%) of the owners of the real property of the historic district may sign and file a petition with the Town Council requesting removal of the designation of the historic district.

c. The Town Council shall submit a petition filed under subsection 13(b) of this ordinance to the Commission. The Commission shall conduct a public hearing on the petition not later than sixty (60) days after receiving the petition. The Commission shall provide notice of the hearing:

- (1) by publication under Ind. Code § 5-3-1-2(b);
 - (2) in the case of a historic district comprised of real property owned by fewer than fifty (50) property owners, by certified mail, sent at least ten (10) days before the hearing, to each owner of real estate within the historic district; and
 - (3) in the case of a single building, structure, or site designated as a historic district, by certified mail, sent at least ten (10) days before the hearing, to each owner of the real estate abutting the building, structure, or site designated as a historic district that is the subject of the petition.
- d. The Commission shall make the following findings after the public hearing:
- (1) Whether a building, structure, or site within the historic district continues to meet the criteria for inclusion in a historic district as set forth in the ordinance approving the historic district map under Section 5 of this Ordinance. The determination must state specifically the criteria that are applicable to the buildings, structures, or sites within the district.
 - (2) Whether failure to remove the designation of the historic district would deny an owner of a building, structure, or site within the historic district reasonable use of the owner's property or prevent reasonable economic return. Evidence provided by the petitioner may include information on:
 - (a) costs to comply with regulations;
 - (b) income generation;
 - (c) availability of contractors to perform work;
 - (d) real estate values;
 - (e) assessed values and taxes;
 - (f) revenue projections;
 - (g) current level of return;
 - (h) operating expenses;
 - (i) vacancy rates;
 - (j) financing issues;
 - (k) efforts to explore alternative uses for a property;
 - (l) availability of economic incentives; and
 - (m) recent efforts to sell or rent property.
 - (3) Whether removal of the designation of a historic district would have an adverse economic impact on the owners of real estate abutting the historic district, based on testimony and evidence provided by the owners of the real estate and licensed real estate appraisers or brokers.
 - (4) Whether removal of or failure to remove the designation of the historic district would have an adverse impact on the Town's historic resources, and specifically whether it would result in the loss of a building, structure, or site classified as historic by the Commission's survey prepared under Section 4 of this Ordinance.

e. Not later than ten (10) days after the public hearing, the Commission shall submit:

- (1) its findings on the petition; and
- (2) a recommendation to grant or deny the petition;

to the Town Council.

a. Not later than forty-five (45) days after receiving the Commission's findings, the Town Council shall:

- (1) take public comment and receive evidence in support of or in opposition to the petition; and
- (2) do one (1) of the following:

- (a) Deny the petition.
- (b) Grant the petition by adopting an ordinance that removes the designation of the historic district by:
 - (i) a majority vote, if the recommendation of the Commission is to grant the petition; or
 - (ii) a two-thirds (2/3) vote, if the recommendation of the Commission is to deny the petition.

The Town Council shall record an ordinance adopted under subsection 13(f)(2) with the Boone County Recorder not later than ten (10) days after the Town Council adopts the ordinance. The historic district designation is considered removed on the date the ordinance is recorded with the Boone County Recorder.

f. If the Town Council does not grant or deny the petition within forty-five (45) days after receiving the Commission's findings:

- (1) the petition is considered granted or denied in accordance with the recommendation of the Commission; and
- (2) if the petition is considered granted, the Town Council shall, not later than fifty-five (55) days after receiving the Commission's findings:
 - (a) adopt an ordinance that removes the designation of the historic district; and
 - (b) record the ordinance with the Boone County Recorder.

The historic district designation is considered removed on the date the ordinance is recorded with the Boone County Recorder.

Section 14. Enforcement by Interested Parties

a. An interested party (as defined in Section 2) has the rights and remedies outlined in Indiana Code § 3-7-11-21.

Section 15. Enforcement, Penalties, and Judicial Review

a. Any person, whether as principal, agent, owner, lessee, tenant, contractor, builder, architect, engineer, or otherwise, who violates any provision of this ordinance shall be subject to a fine for each offense pursuant to the Town's Schedule of Fines and Fees, as amended from time to time.

b. Each day of the existence of any violation of this Ordinance shall be a separate offense.

c. The erection, construction, enlargement, alteration, repair, demolition, color change, moving, or maintenance of any building, structure, or appurtenance which is begun, continued, or maintained contrary to any provisions of this Ordinance is hereby declared to be a nuisance and in violation of this Ordinance and unlawful. The Town may institute a suit for injunction in the Circuit Court or Superior Court of Boone County to restrain any person or government unit from violating any provision of this Ordinance and to cause such violation to be prevented, abated, or removed. Such action may also be instituted by any property owner who is adversely affected by the violation of any provision of this chapter.

d. The remedies provided for in this Section shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law.

e. Any person or party aggrieved by a decision of the Commission shall be entitled to judicial review under Indiana Code § 36-7-4 as if it were a final decision of a board of zoning appeals.

Section 16. Severability

If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

Introduced and filed on the ____ day of _____, 2022. A motion to consider on First Reading was sustained by a vote of _____ in favor and _____ opposed, pursuant to Indiana Code § 36-5-2-9.8.

DULY PASSED AND ADOPTED this _____ day of _____ 2022, by the Town Council of the Town of Zionsville, Boone County, Indiana, having been passed by a vote of _____ in favor and _____ opposed.

**TOWN COUNCIL OF THE TOWN OF ZIONSVILLE,
BOONE COUNTY, INDIANA**

YEA

NAY

	Signature	Signature
Jason Plunkett, President		
Brad Burk, Vice-President		
Bryan Traylor, Member		
Alexander Choi, Member		
Josh Garrett, Member		
Joe Culp, Member		
Craig Melton, Member		

I hereby certify that the foregoing Ordinance was delivered to Town of Zionsville Mayor Emily Styron on the _____ day of _____ 2022, at _____ m.

ATTEST: _____
Amelia Anne Lacy, Director,
Municipal Relations Coordinator

MAYOR'S
APPROVAL

Emily Styron, Mayor

DATE

MAYOR'S
VETO

Emily Styron, Mayor

DATE