

ORDINANCE No. 2018-04
HISTORIC PRESERVATION ORDINANCE
VILLAGE OF ZOAR, OHIO

Effective date: 5/8/18

Whereas, the Village of Zoar was designated as a National Treasure by the National Trust for Historic Preservation and was included on the Trust's list of 11 most-endangered historic places in 2011; the Village Council has determined that the utmost effort must be made to preserve the unique historic character of the village for future generations.

Whereas, the Village of Zoar is one of the most complete remaining examples of a successful communal society established by German immigrants in the United States from 1817 to 1898;

Whereas, the Ohio History Connection as well as many private residents have worked diligently over the years to preserve many of the original buildings and structures;

Whereas, the Village of Zoar was officially designated as a National Historical Landmark by the U.S. Department of Interior in 2016;

Whereas, since the enactment of the Historic Preservation Ordinance 2014-04, additional revisions were necessary in order to clarify and better facilitate the preservation requirements. These requirements include: (1) Acknowledgment that the village was approved as a Certified Local Government; (2) All new perspective commission members must have a resume approved by Ohio Historic Preservation Office; (3) The HPC Commission shall consist of one member from the Planning Commission in addition to the Mayor and the Council Representative; (4) A modified process for recommending designation of a historic structure or site; (5) After holding a public hearing, the HPC may elect to reconvene a meeting to consider the testimony and to take any actions; (6) A Certificate of Appropriateness (COA) shall be required for any project permit involving a designated historic landmark; and, (7) Appendix A & B shall be identical and consistent with the latest revision of the Zoning Ordinance including all the Secretary of Interior's Standards for Preservation, Rehabilitation, Restoration, and Reconstruction.

Now Therefore, be it ordained by the Village Council of Zoar, Ohio that the Historic Preservation regulations shall be enacted by this ordinance and that Ordinance 2014-04 shall be repealed.

Historic Preservation Ordinance

Village of Zoar, Ohio

Adopted by Ordinance No. 2018-04

Effective Date 5/8/18

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Section 1: Statement of Purpose

The Village Council hereby recognizes the importance of providing the necessary leadership and taking appropriate actions to preserve the significant historic resources and rich cultural heritage of the Village

for future generations. This includes establishing procedures for the careful review of any alteration or demolition of historic sites before such acts are performed; facilitating the rehabilitation of distressed historic properties; encouraging civic pride; promoting and enhancing the economic, recreational, cultural and educational opportunities of the historic attractions of the Village for both residents and visitors, encouraging compatible businesses; and, stabilizing and improving property values.

This ordinance fulfills part of the requirements for the Village to maintain its status as a *Certified Local Government (CLG)*. This program is intended to promote the preservation of historic sites by establishing a partnership with the Ohio Historic Preservation Office (OHPO). The basis for this partnership is the *National Historic Preservation Act* which directs States and the Department of Interior to certify local governments to participate in the partnership program. The village was approved as a *Local Certified Government* in 2015 and now has full access to all the technical, educational and other supportive services of OHPO.

Section 2: Definitions

For the purpose of this ordinance, certain words and terms are hereby defined. Where any words and terms are not so defined, common dictionary usage or applicable statutory or judicially determined definitions shall apply, where appropriate. When not inconsistent with the context, words used in the singular shall include the plural, the plural shall include the singular; the present tense shall include the future; and, words of one gender shall include other genders.

1. ***Alteration***: any change in the external architectural features of any listed historic building, structure, or other historic site. For the purpose of this ordinance, alteration(s) shall include a change in design, texture, material or exterior features.
2. ***Certificate of Appropriateness***: a certificate issued by the Historic Preservation Commission verifying that all the conditions of this ordinance have been met for any new construction, alteration or demolition to any historic site.
3. ***Demolition***: the razing or removal in whole or in part of any historic site.
4. ***Landmark***: any historic site determined by the Commission and approved by Village Council which has special character, archaeological, historical, architectural, or aesthetic value as part of the heritage or cultural characteristics of the Village.
5. ***OHPO***: Ohio Historic Preservation Office.
6. ***SHPO***: State Historic Preservation Officer.
7. ***Historic Site***: the real property on which a structure or object having historic significance is located; or, if there is no structure or object, but which by itself is of historic significance and has been designated as a landmark pursuant to the provisions of this ordinance (examples include wells, springs, landscaping, birth or grave markings or other archaeological features).
8. ***Historic Register***: those buildings, structures or other historic sites listed as landmarks on the National Register of Historic Places.

9. *Landscaping*: means or includes trees or other plantings that are historically significant or plantings located on open tracts of land, parking lots, streets, alleys, and publically owned property, but not flowers and shrubbery incidental to the enhancement of single properties.

Section 3: Establishment of the Historic Preservation Commission

A public body designated as the Historic Preservation Commission shall be established with authority to designate historic buildings and structures or other historic sites located in the Village as landmarks. The board shall consist of five (5) voting members who shall be residents of the Village to the extent that qualified members are available. The members shall be appointed by the Mayor and approved by Council. The commission shall include the Mayor, a member of the Planning Commission, and a member of Village Council excluding the Council representative on the Planning Commission.

Section 4: Qualification of Members

The members selected for the commission shall have knowledge or interest in architecture and historic preservation along with a determination to work for the overall historic preservation of the Village. Members, to the extent possible, shall be selected based on professional qualifications in history, architecture, archaeology, planning, building trades or related disciplines. A public notice shall be made to solicit residents to serve on the Commission, however, it is recognized that due to the small size of the Village it may not be possible to find residents who are willing and qualified to serve. Members may be selected from outside the Village including organizations that are dedicated to historic preservation. The Ohio Historic Preservation Office also requires all new perspective members to submit a resume for their approval.

Section 5: Organization and Terms

Commission members shall serve for 4 years with all terms starting in January of any given year. Terms shall be staggered so that no more than two members' terms shall expire in any one year. Members may be removed for cause by the Village Council following the procedure set forth in the Ohio Revised Code (Sections 733.35 – 733.39). Vacancies shall be filled within 60 days from the date of vacancy, unless extenuating circumstances require additional time.

The Commission shall meet at least four (4) times a year on a quarterly basis. Additional special meetings may be held to review applications for a Certificate of Appropriateness or an emergency related to any historic site. Public notice of a special meeting shall comply with the Ohio Open Meetings Act. A notice shall provide the purpose, date, time, and location of the meeting and shall be posted at designated locations in the Village at least 24 hours in advance or immediately if an emergency. All meetings shall be open to the public.

The Commission shall elect a Chairman, vice-Chairman and Secretary at its initial meeting of each year. The Commission shall adopt such rules and procedures as may be necessary for the conduct of its

business and such rules and procedures shall be made public. The Chairman shall conduct the meetings of the Commission, determine the meeting agenda, administer an oath to any persons offering testimony to the Commission, and provide a documented annual summary of the Commission's major actions. The vice-Chairman shall perform the duties of the Chairman in the event of the Chairman's absence. The Secretary shall keep minutes of all meetings, keep members apprised of meeting times and agendas, distribute documents to be reviewed by the Commission, maintain records, handle communications on behalf of the Commission, and sign any certificates or other documents as approved by the Commission. All minutes of Commission meetings and the annual report shall be available to the public.

Any Commission member who has a financial interest or any other conflict of interest in any agenda item shall notify the commission and shall refrain from voting on or participating in any of the commission's discussion. Any Commission member who knowingly conceals such conflict interest shall be subject to removal from office.

Section 6: Duties and Authority

The Commission is hereby vested to exercise the following powers and perform the duties as is consistent with the purpose of this ordinance:

1. Establish and maintain an inventory of all historic sites and landmarks based on available historic and architectural studies and other available records with public input and knowledge;
2. Recommend the designation of local landmarks to Village Council;
3. Maintain a current register of designated landmarks using forms or a format that is compatible with OHPO's computerized inventory. Each landmark shall include a photograph, the reasons for listing, and a description of the property. The register shall be updated as the need arises, kept in a secure place, and made available to the public;
4. Work cooperatively with all Village governmental bodies, the Zoar Community Association, the Ohio History Connection, and other organizations to ensure the inclusion of historic preservation values in zoning, building, and land use decisions;
5. Members shall be encouraged to attend educational opportunities at least once a year pertaining to functions of the Commission, and support ongoing village historical educational programs for residents and visitors;
6. Review and act upon all applications for a *Certificate of Appropriateness*;
7. Recommend any changes to the two Historic Districts to the Planning Commission.
8. In addition to the current design standards and guidelines attached to this ordinance, the Commission may recommend additional requirements for consideration by the Planning Commission;

9. Additional responsibilities may be undertaken by the Commission upon mutual agreement between SHPO and Village Council.

Section 7: Designation of Landmarks

1. The Commission with approval of Village Council may designate a historic site in the Village as a landmark. The Commission, on its own initiative, or any owner of property may apply to the Commission for designation as a landmark. In determining whether or not to designate such property, the Commission shall consider the following criteria to determine historic significance:
 - a) A building or other historic site built during the Zoar Society prior to 1898 or is at least 50 years old;
 - b) A site associated with a significant historic event;
 - c) A property associated with a person who made significant contributions to the overall culture and development of the Zoar Society of Separatists;
 - d) An example of unique cultural, economic, social, archaeological or other historic heritage values;
 - e) An era of history characterized by a distinctive architectural style;
 - f) The embodiment of distinguishing characteristics of an architectural type;
 - g) The identification of work of an architect or master builder whose work has influenced the character and development of the village;
 - h) The embodiment of elements of architectural design, detail, and materials of craftsmanship which represent a significant architectural innovation;
 - i) The unique location or physical characteristics representing an established and familiar visual feature of a neighborhood in all or part of the village;
 - j) The continuity or relationship to other distinctive features or areas which are eligible for preservation based on historic, cultural, scenic or architectural features;
 - k) The likelihood of yielding important information to the understanding of the history of the Zoar Society of Separatist.
 - l) Such other individual characteristics as shall be relevant to the designation as a landmark.
2. The Commission shall propose the designation of a landmark or any change to the two historic districts by taking the following actions:
 - a) When a proposal to designate an individual property or other historic site as a landmark is received or initiated by the Commission, the above criteria shall be considered to

determine historic significance and to make a preliminary recommendation to Village Council.

- b) Where a private property owner requests designation of a historic structure or site, the Commission shall make a preliminary recommendation and notify the owner and Council. If the recommendation is favorable, a public notice shall be issued for at least 10-days requesting any comments. If no opposing comments are received, the Commission shall make a final recommendation to Council for approval. The HPC may elect to have a public hearing before making a final recommendation.

- c) Where the Commission initiates designation of any public or privately owned structure or site meeting the above criteria, the owner, the Planning Commission and Village Council, as well as the general public, shall be notified of a public hearing by the Commission and given the opportunity to provide written or oral comments. At the hearing, the Commission shall explain the purpose and criteria used for designation and why the landmark status is being sought. A record shall be kept of all interested parties attending and any comments received.

- d) The Commission shall adjourn a public hearing after receiving all testimony. The Commission may then deliberate to render a decision or elect to continue at a future meeting. The Commission may elect to call a special meeting or wait until the next regular scheduled meeting. The Commission shall make a final recommendation to Village Council along with supporting documents including a summary of any comments received.

- e) Village Council shall consider the Commission's recommendation. If approved by a majority vote, the structure or site shall be designated.

- f) If Village Council does not approve the recommendation:
 - i. The Commission may revise and resubmit the recommendation along with additional supporting information.
 - ii. Village Council may, upon request by an affected property owner, disapprove the recommendation for designation but instead, designate the property as "eligible for designation." The Commission shall record the property as such until such time as the property owner desires designation as a landmark.

- g) For proposed designations of buildings and structures privately owned, only the exterior shall be considered designated unless otherwise specified. For buildings and structures publicly owned, the designations shall include both the interior and exterior unless otherwise specified.
- h) Once a historic site has been designated, the designation remains with the site regardless of the owner of the property.
- i) All properties located in the two historic districts are subject to the applicable zoning requirements regardless of whether designated or not.
- j) Any decision of the Commission may be appealed to Village Council as set forth in Section 15.
- k) The Village for the most part is already zoned into two Historic Districts. The Commission, however, may recommend any changes to the Planning Commission. If the Planning Commission elects to make any changes, they must be approved by Village Council after giving due public notice and a public hearing in accordance with the procedures set forth in the zoning ordinance.
- l) Notwithstanding any provision of this section, Village Council may rescind the designation of any historic site as a landmark by ordinance. Passage of such an ordinance shall relieve the owner of such historic site from any duties or penalties contained in this ordinance.

Section 8: Certificate of Appropriateness (COA)

No construction, reconstruction, alteration or demolition of any designated historic site or landmark shall be undertaken without obtaining a Project Permit from the Planning Commission and a Certificate of Appropriateness from the HPC. Additionally, any request for demolition must also comply with the requirements of Section 9 of this ordinance. Before approving a Project Permit, the Planning Commission may require the applicant to obtain a *Certificate of Appropriateness* from the Historic Preservation Commission as outlined below:

1. An applicant for a COA can attend any meeting of the Commission and request a preliminary conceptual review. The purpose of this review is to assist an applicant with understanding the requirements of this ordinance;
2. All applicants requiring a COA shall file the necessary information requested on an official form provided by the Commission;

3. The Commission shall consider COA applications that are filed at least two (2) weeks prior to a meeting of the Commission. The Secretary or other designated member of the Commission shall make an initial review of an application received and make a determination of completeness to form. If the application is complete, the applicant will be notified that the application will be scheduled for review by the full Commission. If the application is not complete, the Secretary will notify the applicant. The applicant can still request a conceptual review by the Commission; however, action on a COA cannot be made final until a complete application has been filed. The Commission may request additional information from the applicant prior to taking action.
4. The Commission shall review a COA application and make a determination if it complies with the requirements of this ordinance. In making such a determination, the Commission shall refer to the Historic Area District Architectural Standards adopted by the Village zoning ordinance (attached Appendix A), the Secretary of the Interior's "Standards for Rehabilitation" (attached Appendix B), the requirements for Demolition Review (attached Appendix C), and the village zoning and land use ordinances.

Voting by the Commission to decide matters shall be a majority of those present, provided that a quorum of at least 3 members is present.

5. If the Commission approves an applicant's request, it shall issue a COA. The Secretary shall notify the applicant and the Planning Commission in writing within ten (10) days.
6. If the Commission denies the applicant's request, it shall deny the issuance of a COA. The Secretary shall notify the applicant and the Planning Commission in writing within ten (10) days of the Commission's decision giving the reasons for denial and recommendations, if any, from the Commission.
7. Any decision of the Commission may be appealed to Village Council as set forth in Section 15.

Section 9: Demolition Review

1. A *Certificate of Appropriateness* application for demolition of a historic site in whole or in part that has been designated a landmark, build prior to 1898 or is otherwise greater than 50 years old shall require the Commission to undergo an additional demolition review process. This is to ensure that historically significant buildings and structures worthy of preservation are not purposely or inadvertently demolished. The applicant must provide sufficient information to the Commission in order for the Commission to make a determination of significance and evaluate the alternative options using the criteria given in Appendix B.
2. If the application is considered significant by the Commission, a public hearing shall be held within sixty (60) days of the determination. The hearing shall consider alternatives to preserve the buildings or structures using the criteria given in Appendixes A and B. Notification to the public and adjacent property owners shall be provided in accordance with the hearing procedures established in the Village Zoning Ordinance. The Commission may require an

additional demolition delay of up to ninety (90) days, or longer if justified, after the public hearing before taking action on the COA request.

3. Village Council must give final approval to any COA for a significant demolition. If the Commission votes in favor of a COA application for demolition, the Secretary of the Commission shall advise Village Council of the Commission's recommendation and request Council's review and approval at least two (2) weeks prior to the next Council meeting.
4. If the Commission votes to deny the COA application, the applicant shall be notified in writing within ten (10) days. Any decision of the Commission may be appealed to Village Council as set forth in Section 15.

Section 10: Exclusions and Exemptions

1. Nothing in this ordinance shall be construed to prevent the ordinary maintenance or repair of any landmark or other historic site listed under the provisions of this ordinance provided such work involves no change to the structural exterior appearance i.e. any replacement in kind;
2. Nothing in this ordinance shall be construed to prevent any change of any feature which, in the view of the Village Council is required for the public health and safety because of an unsafe or dangerous condition, or which is required for the provision of police and fire services;
3. The historic sites located in the Village owned by the State of Ohio, the Ohio History Connection, or other governmental or public entities shall be subject to this ordinance. The Commission, however, may elect to waive any permit or fee requirements provided that the Commission is notified at least 15 days in advance of any changes.

Section 11: Financial

There shall be no compensation paid to any volunteer member of the Commission for any services performed on behalf of the Commission. All operating expenses incurred by the Commission shall be approved by Village Council. All funds received from permit fees, penalties, grant requests or any other sources, shall be deposited and disbursed by the Village Fiscal Officer with approval of Council.

Section 12: Records

The Secretary of the Commission shall maintain records consisting of meeting minutes, permits issued, hearings held, and applicable ordinances or other operating procedures adopted. All records shall be retained in the Village Town Hall office in accordance with the Village Record Keeping Ordinance and shall be reviewed at the end of each year by the Commission for completeness.

Section 13: Penalties

Whoever violates or otherwise refuses to comply with the provisions of this ordinance shall be subject to the same penalties as provided for in the village zoning ordinance. Each offence and each day of violation shall constitute separate offences.

Section 14: Fees

The fees for a Certificate of Appropriateness, a public hearing, or an appeal to Council shall be as specified in the village ordinance for fees.

Section 15: Right of Appeal

Any person aggrieved by a decision of the Commission may appeal such decision to Village Council by submitting a written request of such appeal postmarked within ten (10) days of being notified of a decision by the Commission. Within sixty (60) days thereafter, Village Council may, by a vote of a majority of the eligible elected members, reverse or modify the decision of the Commission. The Mayor and any Council member serving on the Commission shall not be eligible to vote, except that the Mayor can vote to break a tie. Should Council fail to act within such period of sixty (60) days, or should the resolution of revision or modification fail to be passed by the required vote of Council, such decision of the Commission shall be deemed to be affirmed. Decisions of the Village Council shall be final. An appeal of Village Council decisions shall be subject to judicial review by the Court of Common Pleas of Tuscarawas County, Ohio, in accordance with the law of the State of Ohio.

Section 16: Separability

The provisions of this ordinance are separable, and if any provision or part of this ordinance should be held invalid, such invalidity shall not affect the validity of the remainder of this ordinance.

Section 17: Adoption of Ordinance

It is hereby found and determined that all formal actions of the Village Council concerning the passage of this ordinance were adopted in an open meeting of Council, in compliance with all legal requirements. This ordinance shall take effect and be in force from and after the earliest period allowed by law.

PASSED: 5/8/18 ATTEST: _____

MAYOR: _____
Scott C. Gordon

CLERK/TREASURER: _____
Patty Smith

APPENDIX A – Section I

General Architectural Standards – Effective in all Zoning Districts

A. Building and Structure Height: No building shall be constructed or altered to exceed thirty-five (35) feet in height. No structure shall be constructed or altered to exceed more than twelve (12) feet above the building height; nor shall such structures have a total area greater than twenty five (25) percent of the roof area of the building.

B. Setback: No buildings or structures, other than signs, sidewalks, driveways, fences, walls, or parking lots; erected after 1973 shall be located within thirty (30) feet from the front property line or within ten (10) feet from the rear or side property line, or within twenty (20) feet from any public right-of-ways. Any other exceptions to setbacks noted herein are contained in Section II of Appendix A.

C. Land Coverage: No more than twenty (20%) percent of the area of a lot or acreage shall be covered by a main building (excluding the area covered by porches, breezeways, unenclosed areas, and accessory buildings).

D. Dwelling Standards: Every dwelling hereafter erected in any district shall have a total living floor space of not less than fifteen hundred (1,500) square feet and a total ground floor area of not less than one thousand (1,000) square feet measured from the outside of the exterior walls. Such area shall include utility rooms, but exclude cellars, basements, open porches, garages and other spaces that are not used frequently or during extended periods for living, eating or sleeping purposes, except that rooms intended for such purposes which are "roughed in" and are to be completed within a reasonable time may be considered in computing such ground floor area. No dwelling shall be constructed or altered to have the greatest length or width less than twenty-eight (28) feet or have a roof pitch of less than 5/12. Additional architectural standards for dwellings within the Historic Area District are contained the next Section II. No dwelling shall be constructed or altered without a potable water supply, and plumbing that includes at least one functional toilet connected to a sanitary sewer or a Tuscarawas County Health Department approved treatment system. All County Board of Health regulations shall be complied with at all times regardless if the dwelling is occupied or vacant.

E. Accessory Buildings: Accessory buildings may be erected in any district under the following conditions (*also see Section II if located in the historic district*):

1. The total floor square footage of any accessory buildings, measured at the greatest perimeter, located on any lot or acreage shall not exceed eighty (80) percent of the first floor area of the main building on the lot or acreage, excluding attached garages, porches, and breezeways. Where the main building on the lot or acreage is one story, any accessory buildings located on such land shall not exceed the height of the main building. Where the main building exceeds one story, no accessory building shall exceed eighty (80) percent of the height of the main building.
2. Accessory buildings shall not encroach upon the front yard. Where the lot is a corner lot, accessory buildings shall not encroach upon the front or side yards adjacent to the abutting streets.

F. Color (Including: Roofing, Siding, Trim and Signs): The PC shall provide color oversight on all project permit applications in all districts except the Agriculture District. Soft (muted) colors that are typically recommended for historic areas will be required. Historic color palettes are available from many paint manufacturers. Selection of colors for historic buildings should reflect the period when built and should enhance the architectural character. Colors for the main body of a building should be complemented by accent colors for the trim, doors, and shutters.

G. Swimming Pool: Every swimming pool shall be completely surrounded by a fence, which shall be of rigid construction and shall be not less than four (4) feet in height and shall extend to within four (4) inches of the ground and shall contain no openings larger than four (4) inches square, except for gates or doors. All gates or doors through such enclosures shall be designed to permit locking and shall be kept locked when the pool is not in actual use. If the swimming pool is one of "above ground" construction with a deck or edge level greater than four (4) feet in height, no fence shall be required, however, all ladders, steps, or other means of access to the pool shall be removed when the pool is not in use or if not removed then access from the ground to the deck or edge shall be totally obstructed.

APPENDIX A – Section II

Historic District Architectural Standards

No building or structure shall be erected, converted, enlarged, moved, demolished, reconstructed, or structurally altered except as in conformity with the rules and regulations set forth herein. Exceptions to these requirements may be granted by the HPC if the project permit applicant can demonstrate that the proposed building or architectural feature is similar to existing period Historic District buildings or architectural features. (Note that Appendix A & B shall always be identical and consistent with the latest revision in the Zoning Ordinance).

Part I – New Construction

A. Development Objectives

1. Preserve the significant historic resources and rich cultural heritage of the village while providing for an efficient contemporary use;
2. The application of the standards for new construction shall be to maintain architectural unity, but not necessarily uniformity.

B. New Construction Requirements

1. The basic foundation for the main portion of the main building shall be rectangular with ratios of 1:1.35 to 1:1.6 with the longest dimension being parallel to the street upon which the property fronts. Nothing herein shall be construed to prohibit the construction of small additions to the main structure provided the same are permitted under all other provisions of these regulations.
2. The first floor of the main building basic foundation rectangle shall contain a minimum of one thousand (1,000) square feet, excluding porches, breezeways, garages and L shaped extensions. The first floor shall be entirely above grade.

3. All main buildings shall be full two-story structures, with the second floor exterior dimensions the same as the first floor basic foundation rectangle.
4. Chimneys shall be located entirely within the exterior walls.
5. Porches, full or partial, must be located on the front or rear only and must not exceed one story in height.
6. All roofs of both main and accessory buildings must be gable or modified gable end roofs with pitches between 8/12 and 10/12 or equal to the pitch on the existing historic main or accessory building. No hip, mansard or other roofs are allowed.
7. There shall be no attic dormers or fake dormers.
8. Eave overhangs of both main and accessory buildings must be between 12 and 15 inches or equal in distance of the eave overhangs on the original existing historic main or accessory building.
9. Gable overhangs of both main and accessory buildings must be between 12 and 15 inches or equal in distance of the eave overhangs on the original existing historic main or accessory building.
10. Frontal setbacks for main building structures shall be in line with adjacent main building structures or in conformity with the frontal setback provisions of Appendix A, Section I of this ordinance. Porches shall not be considered part of the main building structure. Side and rear setbacks shall be the same as those delineated in Appendix A, Section I of these *Regulations*.
11. Any property upon which the main dwelling was constructed after 1898 and before ordinance 1998-17 (10/19/1998) shall be exempt from this Section except that the roof pitch of any addition or accessory building shall match that of the main building and eave gable overhangs must be between 12 and 16 inches.
12. For new construction or alterations of commercial buildings, there shall be no evidence of plumbing, heating, cooling, or any mechanical equipment protruding through the walls or roof of the building. All mechanical equipment venting through the roof must be contained and screened within a fake chimney or within an attic. A fence must screen all exterior ground level evidence of heating, air condition or other necessary mechanical equipment.
13. External architectural features, including lighting fixtures, shall emulate the appearance of similar period historic examples as closely as possible. Materials for the project shall be selected that most closely resemble the original period appearance of existing similar historic buildings.

14. Where period materials are not available or within the owner's means to obtain, alternative materials may be used as approved by the HPC. For example, metal roofing was never used on residential buildings in Zoar, thus would not be acceptable for any new houses in the Historic District. For new houses or accessory buildings in the Historic District, a composite roofing material that closely resembles shakes, slate or tile may be acceptable. New fiberglass or composite shingles or similar materials which have the appearance of period roofing, however, may be acceptable; likewise, vinyl siding was not used on historic buildings in Zoar and would not be acceptable. Milled cedar or other rot resistant wood siding would be desirable; however, some types of alternative composite materials such as cement/fiberglass clapboard that closely resembles original siding may be acceptable. Accessory buildings must use original materials where possible or use a replacement composite material that is similar in appearance.
15. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize similar buildings shall be emulated. New additions, exterior alternations, or related new construction shall not destroy historic materials that characterize the property.
16. New additions, exterior alternations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale, and proportion, and massing to protect the historic integrity of the property and its environment.
17. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

Part II – Preservation, Rehabilitation, Restoration and Reconstruction

A. Development Objectives

1. Preserve the significant historic resources and rich cultural heritage of the village while providing for an efficient contemporary use;
2. Facilitate the rehabilitation of historic properties by: (1) encouraging the use or reuse of original historic period materials; (2) restore or replace external historic architectural features as closely as possible to the original appearance; (3) where new replacement materials must be used, select materials that most closely resemble the original period appearance.
3. One of the highest priorities for rehabilitation is to protect the original historic structure from further damage and to bring it closer to its original state.

B. Rehabilitation Requirements

The Standards for Rehabilitation (codified in 36 CFR 67 for use in the Federal Historic Preservation Tax Incentives program) address the most prevalent treatment. "Rehabilitation" is defined as "the process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic, architectural, and cultural values."

Initially developed by the Secretary of the Interior to determine the appropriateness of proposed project work on registered properties within the Historic Preservation Fund grant-in-aid program, the **Standards for Rehabilitation** have been widely used over the years--particularly to determine if a rehabilitation qualifies as a Certified Rehabilitation for Federal tax purposes. In addition, the Standards have guided Federal agencies in carrying out their historic preservation responsibilities for properties in Federal ownership or control; and State and local officials in reviewing both Federal and nonfederal rehabilitation proposals. They have also been adopted by historic district and planning commissions across the country.

The intent of the Standards is to assist the long-term preservation of a property's significance through the preservation of historic materials and features. The Standards pertain to historic buildings of all materials, construction types, sizes, and occupancy and encompass the exterior and interior of the buildings. They also encompass related landscape features and the building's site and environment, as well as attached, adjacent, or related new construction. To be certified for Federal tax purposes, a rehabilitation project must be determined by the Secretary to be consistent with the historic character of the structure(s), and where applicable, the district in which it is located.

As stated in the definition, the treatment "rehabilitation" assumes that at least some repair or alteration of the historic building will be needed in order to provide for an efficient contemporary use; however, these repairs and alterations must not damage or destroy materials, features or finishes that are important in defining the building's historic character. For example, certain treatments--if improperly applied--may cause or accelerate physical deterioration of the historic building. This can include using improper re-pointing or exterior masonry cleaning techniques, or introducing insulation that damages historic fabric. In almost all of these situations, use of these materials and treatments will result in a project that does not meet the Standards. Similarly, exterior additions that duplicate the form, material, and detailing of the structure to the extent that they compromise the historic character of the structure will fail to meet the Standards.

The requirements in Part I (B) (14) for new construction shall also apply to rehabilitation. Additionally, the use of vinyl siding would only be permitted as a stop gap measure to protect the underlying historic structure until a more acceptable period siding could be used.

C. The Secretary of the Interior's Standards for the Treatment of Historic Properties

The Secretary of the Interior is responsible for establishing standards for all programs under Departmental authority and for advising Federal agencies on the preservation of historic properties listed in or eligible for listing in the National Register of Historic Places.

PART 68--THE SECRETARY OF THE INTERIOR'S STANDARDS FOR THE TREATMENT OF HISTORIC PROPERTIES

Sections

68.1 Intent.

68.2 Definitions.

68.3 Standards.

Authority: The National Historic Preservation Act of 1966, as amended (16 U.S.C. 470 et seq.); EO 11593, 3 CFR 75 (1971); sec. 2 of Reorganization Plan No. 3 of 1950 (64 Stat. 1262).

Sec. 68.1 Intent.

The intent of this part is to set forth standards for the treatment of historic properties containing standards for preservation, rehabilitation, restoration, and reconstruction. These standards apply to all proposed grant-in-aid development projects assisted through the National Historic Preservation Fund.

Sec. 68.2 Definitions.

The standards for the treatment of historic properties will be used by the National Park Service and State historic preservation officers and their staff members in planning, undertaking, and supervising grant-assisted projects for preservation, rehabilitation, restoration, and reconstruction. For the purposes of this part:

(a) Preservation means the act or process of applying measures necessary to sustain the existing form, integrity, and materials of an historic property. Work, including preliminary measures to protect and stabilize the property, generally focuses upon the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction. New exterior additions are not within the scope of this treatment; however, the limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a preservation project.

(b) Rehabilitation means the act or process of making possible an efficient compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values.

(c) Restoration means the act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period. The limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a restoration project.

(d) Reconstruction means the act or process of depicting, by means of new construction, the form, features, and detailing of a non-surviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specific period of time and in its historic location.

Sec. 68.3 Standards.

One set of standards--preservation, rehabilitation, restoration, or reconstruction--will apply to a property undergoing treatment, depending upon the property's significance, existing physical condition, the extent of documentation available, and interpretive goals, when applicable. The Standards will be applied taking into consideration the economic and technical feasibility of each project.

(a) Preservation.

(1) A property will be used as it was historically, or be given a new use that maximizes the retention of distinctive materials, features, spaces, and spatial relationships. Where a treatment and use have not been identified, a property will be protected and, if necessary, stabilized until additional work may be undertaken.

- (2)** The historic character of a property will be retained and preserved. The replacement of intact or repairable historic materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.
- (3)** Each property will be recognized as a physical record of its time, place, and use. Work needed to stabilize, consolidate, and conserve existing historic materials and features will be physically and visually compatible, identifiable upon close inspection, and properly documented for future research.
- (4)** Changes to a property that have acquired historic significance in their own right will be retained and preserved.
- (5)** Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.
- (6)** The existing condition of historic features will be evaluated to determine the appropriate level of intervention needed. Where the severity of deterioration requires repair or limited replacement of a distinctive feature, the new material will match the old in composition, design, color, and texture.
- (7)** Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
- (8)** Archeological resources shall be protected and preserved in place. If such resources must be disturbed, mitigation measures shall be undertaken.

(b) Rehabilitation.

- (1)** A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.
- (2)** The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.
- (3)** Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, shall not be undertaken.
- (4)** Changes to a property that have acquired historic significance in their own right shall be retained and preserved.
- (5)** Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.
- (6)** Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in

design, color, texture, and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.

(7) Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.

(8) Archeological resources shall be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.

(9) New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.

(10) New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

(c) Restoration.

(1) A property will be used as it was historically or be given a new use that interprets the property and its restoration period.

(2) Materials and features from the restoration period will be retained and preserved. The removal of materials or alteration of features, spaces, and spatial relationships that characterize the period will not be undertaken.

(3) Each property will be recognized as a physical record of its time, place, and use. Work needed to stabilize, consolidate and conserve materials and features from the restoration period will be physically and visually compatible, identifiable upon close inspection, and properly documented for future research.

(4) Materials, features, spaces, and finishes that characterize other historical periods will be documented prior to their alteration or removal.

(5) Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize the restoration period will be preserved.

(6) Deteriorated features from the restoration period will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials.

(7) Replacement of missing features from the restoration period will be substantiated by documentary and physical evidence. A false sense of history will not be created by adding

conjectural features, features from other properties, or by combining features that never existed together historically.

(8) Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.

(9) Archeological resources affected by a project will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.

(10) Designs that were never executed historically will not be constructed.

(d) Reconstruction.

(1) Reconstruction will be used to depict vanished or non-surviving portions of a property when documentary and physical evidence is available to permit accurate reconstruction with minimal conjecture, and such reconstruction is essential to the public understanding of the property.

(2) Reconstruction of a landscape, building, structure, or object in its historic location will be preceded by a thorough archeological investigation to identify and evaluate those features and artifacts that are essential to an accurate reconstruction. If such resources must be disturbed, mitigation measures will be undertaken.

(3) Reconstruction will include measures to preserve any remaining historic materials, features, and spatial relationships.

(4) Reconstruction will be based on the accurate duplication of historic features and elements substantiated by documentary or physical evidence rather than on conjectural designs or the availability of different features from other historic properties. A reconstructed property will re-create the appearance of the non-surviving historic property in materials, design, color, and texture.

(5) A reconstruction will be clearly identified as a contemporary re-creation.

(6) Designs that were never executed historically will not be constructed.

APPENDIX B

Demolition Review

A Certificate of Appropriateness request for demolition of any landmark or other historic site shall require an additional *demolition review* to ensure that significant historic sites worthy of preservation are not purposely or inadvertently demolished. The applicant must provide sufficient information to the Commission in order for the Commission to make a determination. The Commission shall consider:

- a) The architectural design and unique features;
- b) Whether it is one of the last remaining examples of its kind in the Village;
- c) The overall structural condition;
- d) Does the building or structure contribute to the overall historic importance of the Village;
- e) Does the building or structure embody distinguishing features that help make the Village an attractive place to live and work;

If the application request is considered significant by the Commission, a public hearing shall be held within sixty (60) days of the determination. The hearing shall consider alternatives that will allow for the preservation of all or part of the building or structure. Factors for consideration shall include:

- a) The overall condition based on expert testimony;
- b) The possibility of Landmark designation;
- c) The possibility of rehabilitation with the assistance of any available tax incentives;
- d) Financial assistance from private or government organizations;
- e) Adapting the site to an alternative use;
- f) Finding a new owner who is willing to rehabilitate the building or structure;
- g) Overall impact on the Village;

- h) Any recognized historic events or persons associated with the building or structure;
- i) Projected cost of restoration or repair;
- j) Whether the building or structure is on any local, state or national register of historic places or is eligible for such listing;
- k) Is unique by reason of period, style, or method of construction;
- l) Whether the building or structure could be preserved by incorporating all or part into a site redevelopment plan.

The Commission may require an additional *demolition delay* of up to ninety (90) days, or longer if justified, after the public hearing before taking action on a COA application. The Commission shall evaluate the following:

- a) Realistic alternatives are not likely because of the nature or cost of work necessary;
- b) Any hardships including limited use of the building or structure;
- c) Has the applicant has made a legitimate effort to preserve the building or structure or to locate a purchaser who is willing to preserve or rehabilitate the building or structure;
- d) Are there public safety issues such as storm or fire damage that is not within the owners control;
- e) Is there imminent and substantial danger to the health or safety of the public due to deteriorating conditions;
- f) Can the site be redeveloped to include preserving all or part of the building or structure?

The Village Council shall have final approval of any COA for the demolition of any landmark or other historic site determined as significant by the Commission.

