

**CITY OF LUDINGTON**

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE TO AMEND THE CITY OF LUDINGTON CODE OF ORDINANCES TO ESTABLISH AN HISTORIC DISTRICT AND AN HISTORIC DISTRICT COMMISSION FOR THE CITY OF LUDINGTON HISTORIC DISTRICT**

THE CITY OF LUDINGTON ORDAINS:

**Section 1. SHORT TITLE**

This Ordinance shall be known as the "Historic District Ordinance of the City of Ludington".

**Section 2. STATEMENT OF PURPOSE**

Historic preservation is hereby declared to be a public purpose and the City Council of the City of Ludington may hereby regulate the construction, addition, alteration, repair, moving, excavation, and demolition of resources in historic districts within the City limits. The purpose of this Ordinance is to:

1. Safeguard the heritage of the City of Ludington by preserving districts which reflect elements of its history, architecture, archaeology, engineering, or culture.
2. Stabilize and improve property values in each district and surrounding areas.
3. Foster civic beauty.
4. Strengthen the local economy.
5. Promote the use of historic districts for the education, pleasure, and welfare of the citizens of the City of Ludington and of the State of Michigan.

The City of Ludington -by this Ordinance establishes an Historic District and an Historic District Commission. The Historic District shall be administered by the Historic District Commission, pursuant to this Ordinance, and Act 169 of 1970, being MCL 399.201 et. seq.

**Section 3. DEFINITIONS**

1. **"Alteration"** means work that changes the detail of a resource but does not change its basic size or shape.
2. **"Certificate of Appropriateness"** means the written approval of a permit application for work that is appropriate and does not adversely affect a resource.

3. **"Commission"** means the Historic District Commission of the City of Ludington.
4. **"Committee"** means the Historic District Study Committee established and appointed by the City Council pursuant to Section 4 of this Ordinance.
5. **"City Council"** means the legislative body of the City of Ludington as created by its Charter and the Home Rule Cities Act.
6. **"Demolition"** means the razing or destruction, whether entirely or in part, of a resource and includes, but is not limited to, demolition by neglect.
7. **"Demolition by Neglect"** means neglect in maintaining, repairing, or securing a resource that results in deterioration of an exterior feature of the resource or the loss of structural integrity of the resource.
8. **"Denial"** means the written rejection of a permit application for work that is inappropriate and that adversely affects a resource.
9. **"Fire Alarm System"** means a system designed to detect and announce the presence of fire or by-products of fire. Fire alarm system includes smoke alarms.
10. **"Historic District"** means an area, or group of areas, not necessarily having contiguous boundaries, that contains one resource or a group of resources that are related by history, architecture, archaeology, engineering, or culture.
11. **"Historic Preservation"** means the identification, evaluation, establishment, and protection of resources significant in history, architecture, archaeology, engineering, or culture.
12. **"Historic Resource"** means a publicly or privately owned building, structure, site, object, feature or open space that is significant in the history, architecture, archaeology, engineering, or culture of the city of Ludington, state of Michigan, or the United States.
13. **"Notice to Proceed"** means the written permission to issue a permit for work that is inappropriate and that adversely affects a resource, pursuant to a finding under Section 399.205(6) of Public Act 169 of 1970, as amended.
14. **"Open Space"** means undeveloped land, a naturally landscaped area, or a formal or man-made landscaped area that provides a connective link or buffer between other resources.
15. **"Ordinary Maintenance"** means keeping a resource unimpaired and in good condition through ongoing minor intervention, undertaken from time to time, in its exterior condition. Ordinary maintenance does not change the external appearance of the resource except through the elimination of the usual and expected effects of weathering. Ordinary maintenance does not constitute work for the purposes of this Ordinance.

16. **“Proposed Historic District”** means an area, or group of areas not necessarily having contiguous boundaries, that has delineated boundaries and that is under review by the Committee or the Standing Committee for the purpose of making a recommendation as to whether it should be established as a historic district or added to an established historic district.
17. **“Repair”** means to restore a decayed or damaged resource to good or sound condition by any process. A repair that changes the external appearance of a resource constitutes work for the purposes of this Ordinance.
18. **“Resource”** means one or more publicly or privately owned historic or non-historic buildings, structures, sites, objects, features, or open spaces located within a historic district.
19. **“Smoke Alarm”** means a single-station or multiple-station alarm responsive to smoke and not connected to a system. As used in this subdivision, “single-station alarm” means an assembly incorporating a detector, the control equipment, and the alarm sounding device into a single unit, operated from a power supply either in the unit or obtained at the point of installation. “Multiple-station alarm” means 2 or more single-station alarms that are capable of interconnection such that actuation of 1 alarm causes all integrated separate audible alarms to operate.
20. **“Standing Committee”** means a permanent body established by the City Council under Section 6 of this Ordinance to conduct activities of a historic district study committee on a continuing basis.
21. **“Work”** means construction, addition, alteration, repair, moving, excavation, or demolition.

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#### **Section 4. HISTORIC DISTRICT STUDY COMMITTEE AND THE STUDY COMMITTEE REPORT**

Before establishing an historic district(s), the City Council shall appoint a Historic District Study Committee (hereinafter the "Committee"). A majority of the persons appointed to the Committee shall have a clearly demonstrated interest in or knowledge of historic preservation. The Committee shall contain representation of at least one member appointed from one or more duly organized local historic preservation organizations. The Committee shall do all of the following:

- A. Conduct a photographic inventory of resources within each proposed historic district following procedures established by the State Historic Preservation Office of the Michigan Historical Center.
- B. Conduct basic research of each proposed historic district and historic resources located within that district.
- C. Determine the total number of historic and non-historic resources within a proposed historic district and the percentage of historic resources of that total. In evaluating the significance of historic resources, the Committee shall be guided by the selection criteria for evaluation issued by the United States Secretary of the Interior for inclusion of resources in the National Register of Historic Places, as set forth in 36 CFR part 60, and criteria established or approved by the State Historic Preservation Office of the Michigan Historical Center.
- D. Prepare a preliminary Historic District Study Committee report that addresses at a minimum all of the following:
  1. The charge of the Committee.
  2. The composition of Committee membership.
  3. The historic district(s) studied.
  4. The boundaries of each proposed historic district in writing and on maps.
  5. The history of each proposed historic district.
  6. The significance of each district as a whole, as well as a sufficient number of its individual resources to fully represent the variety of resources found within the district, relative to the evaluation criteria.

The Committee shall transmit copies of the preliminary report for review and recommendations to the Mason County Planning Commission, the State Historic Preservation Office of the Michigan Historical Center, the Michigan Historical Commission, and the State Historic Preservation Review Board. The Committee shall also make copies of the preliminary report available to the public pursuant to Section 399.203 (4) of Public Act 169 of 1970, as amended.

- E. Not less than sixty (60) calendar days after the transmittal of the preliminary report, the Committee shall hold a public hearing in compliance with Public Act 267 of 1976, as amended, MCL 15.261 to 15.275. Public notice of the time, date and place of the hearing shall be given in the manner required by Public Act 267. Written notice shall be mailed by first class mail not less than fourteen (14) calendar days prior to the hearing to the owners of properties within the proposed

historic district, as listed on the most current tax rolls. The report shall be made available to the public in compliance with Public Act 442 of 1976, as amended, MCL 15.231 to 15.246.

F. Within one (1) year of the date of the public hearing, the Committee and the City Council, unless otherwise authorized by the City Council within such one (1) year period, shall take the following actions:

1. The Committee shall prepare and submit a final report with its recommendations and the recommendations, if any, of the Mason County Planning Commission to the City Council as to the establishment of an Historic District(s). If the recommendation is to establish one or more Historic District(s), the final report shall include a draft of the proposed ordinance establishing such Historic District(s).

2. After receiving a final report that recommends the establishment of an Historic District(s), the City Council, at its discretion, may introduce and pass or reject the ordinance proposed by the Committee. If the City Council passes an ordinance(s) establishing one or more Historic Districts, the City shall file a copy of the ordinance(s), including a legal description of the property or properties located within the Historic District(s) with the Register of Deeds. The City Council shall not pass an ordinance establishing a contiguous historic district less than 60 days after a majority of the property owners within the proposed historic district, as listed on the tax rolls of the local unit, have approved the establishment of the historic district pursuant to a written petition.

G. A writing prepared, owned, used, in the possession of, or retained by the Committee, the Standing Committee or any other committee established pursuant to this Ordinance, in the performance of an official function of the Historic District Commission shall be made available to the public in compliance with Public Act 442 of 1976, as amended, MCL 15.231 to 15.246.

**Section 5. ESTABLISHING ADDITIONAL, MODIFYING, OR ELIMINATING HISTORIC DISTRICTS**

1. The City Council may at any time establish by ordinance additional historic districts, including proposed districts previously considered and rejected, may modify boundaries of an existing historic district, or may eliminate an existing historic district. Before establishing, modifying, or eliminating a historic district, a historic district study committee appointed by the City Council shall follow the procedures as stated in Section 399.203 (1-3) of Public Act 169 of 1970, as amended. To conduct these activities, the City Council may retain the initial Committee, establish a Standing Committee, or establish a committee to consider only specific proposed districts and then be dissolved. The committee so appointed shall consider any previously written committee reports pertinent to the proposed action.

2. In considering elimination of a historic district, a committee, including the Committee and the Standing Committee, shall follow the procedures set forth in Section 399.203 (1-3) of Public Act 169 of 1970, as amended, for the issuance of a

preliminary report, holding a public hearing, and issuing a final report but with the intent of showing one or more of the following:

- a. The historic district has lost those physical characteristics that enabled the establishment of the district.
- b. The historic district was not significant in the way previously defined.
- c. The historic district was established pursuant to defective procedures.

#### **Section 6. THE HISTORIC DISTRICT COMMISSION**

The City Council shall establish by this Ordinance a commission to be called the Historic District Commission (hereinafter the "Commission"). The Commission may be established at any time, but not later than the time the first historic district is established. Initial members shall be appointed within 6 months after the enactment of this Ordinance. Each member of the Commission shall reside within the city limits of the City of Ludington. The Commission shall consist of seven (7) members. Members shall be appointed by the City Council. A majority of the members shall have a clearly demonstrated interest in or knowledge of historic preservation. In addition, no less than three members of the commission shall be residents of the district. Members shall be appointed for a term of three (3) years, except the initial appointments of three (3) members for a term of two (2) years and two (2) members for a term of one year. Subsequent appointments shall be for three-year terms. Members shall be eligible for reappointment. In the event of a vacancy on the Commission, interim appointments shall be made by the City Council within sixty (60) calendar days to complete the unexpired term of such position. ~~Two (2) members shall be appointed from a list submitted by duly organized local historic preservation organizations.~~ If such a person is available for appointment, one member shall be an architect who has two years of architectural experience or who is duly registered in the State of Michigan.

The City Council may prescribe powers and duties of the Commission, in addition to those prescribed in this Ordinance, that foster historic preservation activities, projects, and programs in the local unit.

#### **Section 7. HISTORIC DISTRICT COMMISSION MEETINGS, RECORDKEEPING & RULES OF PROCEDURE**

1. The Historic District Commission shall meet at least quarterly or more frequently at the call of the Commission's chair.
2. The business that the Commission may perform shall be conducted at a public meeting held in compliance with the Open Meetings Act, Public Act 267 of 1976, as amended. Public notice of the date, time, and place of the meeting shall be given in the manner required by Public Act 267. A meeting agenda shall be part of the notice and shall include a listing of each permit application to be reviewed or considered by the Commission.
3. The Commission shall keep a record of its resolutions, proceedings and actions. A writing prepared, owned, used, in the possession of, or retained by the Commission in the performance of an official function shall be made available to the public in compliance with the Freedom of Information, Public Act 442 of 1976, as amended.
4. The Commission shall adopt its own rules of procedure and shall adopt design review standards and guidelines for resource treatment to carry out its duties under this Ordinance.

### **Section 8. COMPENSATION**

The members of the Commission will serve on a voluntary basis ~~may be compensated in an amount established by resolution of the City Council.~~

### **Section 9. CHAIRPERSON**

The Commission shall elect its own chairperson for a term of one year and elect a chairperson for the same term for each successive year.

### **Section 10. STAFF.**

The Commission's chairperson shall be responsible for assigning duties to members for performance of the Commission's activities.

### **Section 11. DELEGATION OF MINOR CLASSES OF WORK**

The Commission may delegate in writing the issuance of Certificates of Appropriateness for specified minor classes of work to its staff, or to another delegated authority. The Commission shall provide to its delegated authority specific written standards for issuing Certificates of Appropriateness under this section. The Commission shall review the Certificates of Appropriateness issued by the delegated authority on at least a quarterly basis to determine whether or not the delegated responsibilities should be continued.

### **Section 12. ORDINARY MAINTENANCE**

Nothing in this Ordinance shall be construed to prevent ordinary maintenance or repair of a resource within a historic district or to prevent work on any resource under a permit issued by an authority recognized by the City of Ludington before this Ordinance was enacted.

### **Section 13. PERMIT APPLICATIONS**

1. A permit shall be obtained from the Commission after its review of an application before any work affecting the exterior appearance of a resource is performed within the Historic District. The person, individual, partnership, firm, corporation, organization, institution, or agency of government proposing to do that work shall file an application for a permit with the inspector of buildings. Upon receipt of a complete application, the inspector of buildings shall immediately refer the application, along with all required supporting materials that make the application complete to the Commission. A permit shall not be issued and proposed work shall not proceed until the Commission has acted on the application by issuing a Certificate of Appropriateness or a Notice to Proceed as prescribed in this Ordinance. The Commission shall not issue a Certificate of Appropriateness unless the applicant certifies in the application that the property where work will be undertaken has, or will have before the proposed project completion date, a fire alarm system or a smoke alarm complying with the requirements of the Stille-DeRosset-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531, or any successor code adopted by the City of Ludington.

2. The Commission shall file Certificates of Appropriateness, Notices to Proceed, and Denials of applications for permits in conjunction with building permits issued by the Building Inspector for the City of Ludington~~with the inspector of buildings~~. A permit shall not be issued until the Commission has acted as prescribed by this Ordinance and MCL 399.209 of Act 169 of 1970. If a permit application is denied, the decision shall be binding on the building Inspector's or other authority's ability to issue a building permit~~inspector or other authority~~. A Denial shall be accompanied by a written explanation by the Commission of the reasons for denial and, if appropriate, a notice that an application may be re-submitted for Commission review when the suggested changes have been made. The Denial shall also include the notification of the applicant's right to appeal to the State Historic Preservation Review Board and to the circuit court.
3. Local public officials and employees shall provide information and records to committees, the Commission, and Standing Committee, and shall meet with those bodies upon request to assist with their activities.
4. If an application is for work that will adversely affect the exterior of a resource the Commission considers valuable to the city of Ludington, the state of Michigan, or the nation, and the Commission determines that the alteration or loss of that resource will adversely affect the public purpose of the city, state, or nation, the Commission shall attempt to establish with the owner of the resource an economically feasible plan for the preservation of the resource.
5. The failure of the Commission to act on an application within sixty (60) calendar days after the date a complete application is filed with the City of Ludington Commission, unless an extension is agreed upon in writing by the applicant and the Commission, shall be considered to constitute approval.
6. The Commission may charge a reasonable fee to process a permit application, which fee may include Commission expenses for expert assistance from planners, architects, historians, attorneys, engineers and others who may provide assistance to the Commission in reviewing an application.

#### **Section 14. NOTICE TO PROCEED**

Work within a Historic District shall be permitted through the issuance of a Notice to Proceed by the Commission if any of the following conditions prevail and if the proposed work can be demonstrated by a finding of the Commission to be necessary to substantially improve or correct any of the following conditions:

- A. The resource constitutes a hazard to the safety of the public or to the structure's occupants.
- B. The resource is a deterrent to a major improvement program that will be of substantial benefit to the community and the applicant proposing the work has obtained all necessary planning and zoning approvals, financing, and environmental clearances.
- C. Retaining the resource will cause undue financial hardship to the owner when a governmental action, an act of God, or other events beyond the owner's control

created the hardship, and all feasible alternatives to eliminate the financial hardship, which may include offering the resource for sale at its fair market value or moving the resource to a vacant site within the historic district, have been attempted and exhausted by the owner.

D. Retaining the resource is not in the interest of the majority of the community.

#### **Section 15. REVIEW BY THE COMMISSION**

The Commission shall review and act upon only exterior features of a resource and shall not review and act upon interior arrangements unless specifically authorized to do so by the City Council or unless interior work will cause visible change to the exterior of the resource. The Commission shall not disapprove an application due to considerations not prescribed in subsection 399.205 (3) of Public Act 169 of 1970, as amended.

#### **Section 16. DESIGN REVIEW STANDARDS AND GUIDELINES**

1. In reviewing applications for work plans, the Commission shall follow the U.S. Secretary of Interior's *Standards for Rehabilitation* and guidelines for rehabilitating historic buildings as set forth in 36 C.F.R. part 67. Design review standards and guidelines that address special design characteristics of historic districts administered by the Commission may be followed if they are equivalent in guidance to the Secretary of Interior's *Standards* and guidelines and are established or approved by the State Historic Preservation Office of the Michigan Historical Center.
2. In reviewing applications for work plans, the Commission shall also consider all of the following:
  - A. The historic or architectural value and significance of the resource and its relationship to the historic value of the surrounding area.
  - B. The relationship of any architectural features of the resource to the rest of the resource and to the surrounding area.
  - C. The general compatibility of the design, arrangement, texture, and materials proposed to be used.
  - D. Other factors, such as aesthetic value, that the Commission finds relevant.
  - E. Whether the applicant has certified in the application that the property where the work will be undertaken has or will have before the proposed project completion date, a fire alarm system or a smoke alarm complying with the requirements of the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531.

#### 3. § 67.7 U.S. Secretary of Interior's Standards for Rehabilitation.

(a) The following Standards for Rehabilitation are the criteria used to determine if a rehabilitation project qualifies as a certified rehabilitation. 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 the interior of historic buildings. The Standards also encompass related landscape features and the building's site and environment, as well as attached, adjacent, or related new construction. To be certified, 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.

(b) The following Standards are to be applied to specific rehabilitation projects in a reasonable manner, taking into consideration economic and technical feasibility. (The application of these Standards to rehabilitation projects is to be the same as under the previous version so that a project previously acceptable would continue to be acceptable under these Standards.)

(1) A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.

(2) The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall 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 architectural elements from other buildings, shall not be undertaken.

(4) Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.

(5) Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.

(6) Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.

(7) Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

(8) Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

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

(10) 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.

(c) The quality of materials and craftsmanship used in a rehabilitation project must be commensurate with the quality of materials and craftsmanship of the historic building in question. Certain treatments, if improperly applied, or certain materials by their physical properties, may cause or accelerate physical deterioration of historic buildings. Inappropriate physical treatments include, but are not limited to: improper repointing techniques; improper exterior masonry cleaning methods; or improper introduction of insulation where damage to historic fabric would result. In almost all situations, use of these materials and treatments will result in denial of certification. 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 result in denial of certification. For further information on appropriate and inappropriate rehabilitation treatments, owners are to consult the Guidelines for Rehabilitating Historic Buildings published by the NPS. "Preservation Briefs" and additional technical information to help property owners formulate plans for the rehabilitation, preservation, and continued use of historic properties consistent with the intent of the Secretary's Standards for Rehabilitation are available from the SHPOs and NPS WASO. Owners are responsible for procuring this material as part of property planning for a certified rehabilitation.

(d) In certain limited cases, it may be necessary to dismantle and rebuild portions of a certified historic structure to stabilize and repair weakened structural members and systems. In such cases, the Secretary will consider such extreme intervention as part of a certified rehabilitation if:

(1) The necessity for dismantling is justified in supporting documentation;

(2) Significant architectural features and overall design are retained; and

(3) Adequate historic materials are retained to maintain the architectural and historic integrity of the overall structure.

Section 47 of the Internal Revenue Code of 1986 exempts certified historic structures from meeting the physical test for retention of external walls and internal structural framework specified therein for other rehabilitated buildings. Nevertheless, owners are cautioned that the Standards for Rehabilitation require retention of distinguishing historic materials of external and internal walls as well as structural systems. In limited instances, rehabilitations involving removal of existing external walls, i.e., external walls that detract from the historic character of the structure such as in the case of a non-significant later addition of walls that have lost their structural integrity due to deterioration, may be certified as meeting the Standards for Rehabilitation.

(e) Prior approval of a project by Federal, State, and local agencies and organizations does not ensure certification by the Secretary for Federal tax purposes. The Secretary's Standards for Rehabilitation take precedence over other regulations and codes in determining whether the rehabilitation project is consistent with the historic character of the property and, where applicable, the district in which it is located.

(f) The qualities of a property and its environment which qualify it as a certified historic structure are determined taking into account all available information, including information derived from the physical and architectural attributes of the building; such determinations are not limited to information contained in National Register or related documentation.

#### 4. Local Review Guidelines and Standards for Rehabilitation

(1) The commission will allow modern materials and products, where original products cannot be saved or rehabilitated. Modern products must be sensitively added and conform to the historic materials in design, size, texture and other visual qualities. Modern products permitted can be, but are not limited to, vinyl material, composite plastic, asphalt shingles, and other products that arise as new technologies are developed. Products will be evaluated for appropriateness to the structure in design, style, texture, size, and other visual qualities affecting the historic nature of the structure and its relevance to the time period.

### **Section 17. APPEAL OF A COMMISSION DECISION**

1. An applicant aggrieved by a decision of the Commission concerning a permit application may file an appeal with the State Historic Preservation Review Board. The appeal shall be filed within sixty (60) calendar days after the decision is furnished to the applicant. The appellant may submit all or part of the appellant's evidence and arguments in written form. The State Historic Preservation Review Board shall consider an appeal at its first regularly scheduled meeting after receiving the appeal. A permit applicant aggrieved by the decision of the State Historic Preservation Review Board may appeal the decision to the circuit court having jurisdiction over the Historic District Commission whose decision was appealed to the State Historic Preservation Review Board.
2. Any citizen or duly organized historic preservation organization in the City of Ludington, as well as resource property owners, jointly or severally aggrieved by a decision of the Commission may appeal the decision to the circuit court, except that a permit applicant aggrieved by a decision rendered under this Ordinance may not appeal to the court without first exhausting the right to appeal to the State Historic Preservation Review Board.

### **Section 18. WORK WITHOUT A PERMIT**

When work has been done upon a resource without a permit, and the Commission finds that the work does not qualify for a Certificate of Appropriateness, the Commission may require an owner to restore the resource to the condition that the resource was in before the inappropriate work or to modify the work so that it qualifies for a Certificate of Appropriateness. If the owner does not comply with the restoration or modification requirement within a reasonable time, the Commission may seek an order from the circuit court to require the owner to restore the resource to its former condition or to modify the work so that it qualifies for a Certificate of Appropriateness. If the owner does not comply or cannot comply with the order of the court, the Commission or its agents may enter the property and conduct work necessary to restore the resource to its former condition or modify the work so that it qualifies for a Certificate of Appropriateness in accordance with the court's order. The costs of the work done shall be charged to the owner, and may be levied by the City of Ludington as a special assessment against the property as provided in MCL 399.205(12). When acting pursuant to an order of the circuit court, the Commission or its agents may enter a property for purposes of this section.

### **Section 19. DEMOLITION BY NEGLECT**

Upon a finding by the Commission that a historic resource within a Historic District or a proposed Historic District subject to its review and approval is threatened with Demolition by Neglect, the Commission may do either of the following:

1. Require the owner of the resource to repair all conditions contributing to Demolition by Neglect.
2. If the owner does not make repairs within a reasonable time, the Commission or its agents may enter the property and make such repairs as necessary to prevent Demolition by Neglect. The costs of the work shall be charged to the owner, and may be levied by the City of Ludington as a special assessment against the property as provided in MCL 399.205(11)(b). The Commission or its agents may enter the property for purposes of this section upon obtaining an order from the circuit court.

## **Section 20. REVIEW OF WORK IN PROPOSED DISTRICTS**

Upon receipt of substantial evidence showing the presence of historic, architectural, archaeological, engineering, or cultural significance of a proposed historic district, the City Council may, at its discretion, adopt a resolution requiring that all applications for permits within the proposed historic district be referred to the Historic District Commission as prescribed in Section 13 of the Ordinance. The Historic District Commission shall review permit applications with the same powers that would apply if the proposed historic district was an established historic district. The review may continue in the proposed historic district for not more than one year, or until such time as the City Council approves or rejects the establishment of the historic district by ordinance, whichever occurs first.

## **Section 21. EMERGENCY MORATORIUM**

If the City Council determines that pending work will cause irreparable harm to resources located within an established or proposed historic district, the City Council may by resolution declare an emergency moratorium on all such work for a period not to exceed six (6) months. The City Council may extend the emergency moratorium for an additional period not to exceed six (6) months, upon finding that the threat of irreparable harm to resources is still present. Any pending permit application concerning a resource subject to an emergency moratorium may be summarily denied.

## **Section 22. PENALTIES FOR VIOLATIONS**

1. A person, individual, partnership, firm, corporation, organization, institution, or agency of government that violates this act is responsible for a civil violation and may be fined not more than \$5,000.00.
2. A person, individual, partnership, firm, corporation, organization, institution, or agency of government that violates this act may be ordered by a court of competent jurisdiction to pay the costs to restore or replicate a resource unlawfully constructed, added to, altered, repaired, moved, excavated or demolished.

## **Section 23. ACCEPTANCE OF GIFTS OR GRANTS**

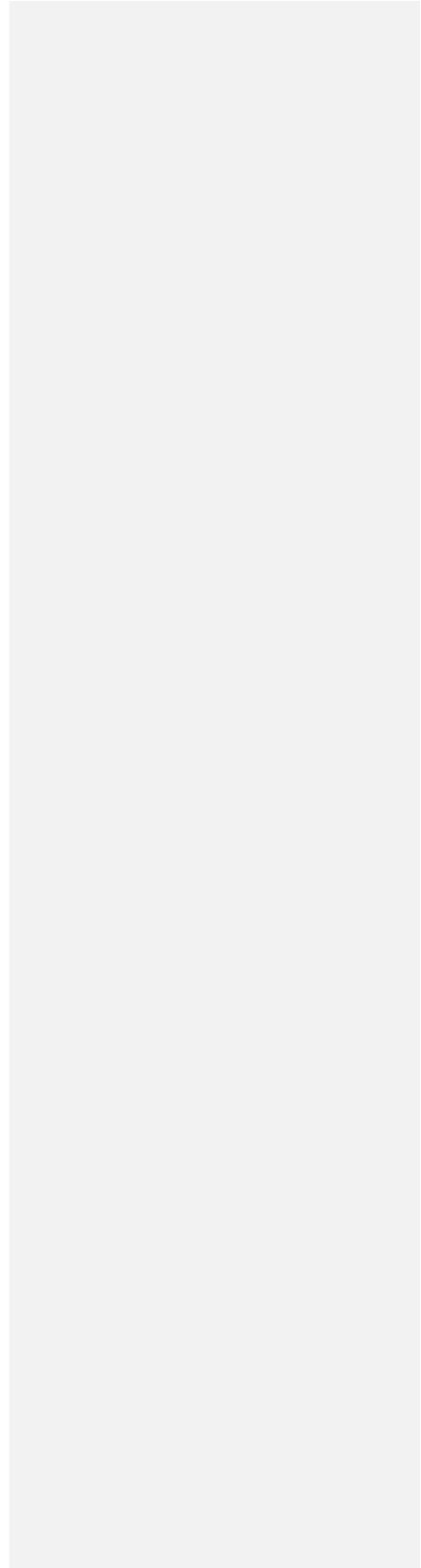
The City Council may accept state or federal grants for historic preservation purposes; may participate in state and federal programs that benefit historic preservation, and may accept public or private gifts for historic preservation purposes. The City Council may appoint the Historic District Commission to accept and administer grants, gifts, and program responsibilities.

## **Section 24. ACQUISITION OF HISTORIC RESOURCES**

If all efforts by the Commission to preserve a resource fail, or if it is determined by the City Council that public ownership is most suitable, the City Council, if considered to be in the public interest, may acquire the resource using public funds, public or private gifts, grants or proceeds from the issuance of revenue bonds. The acquisition shall be based upon the recommendation of the Commission. The Commission is responsible for maintaining publicly owned resources using its own funds, if not specifically designated for other purposes, or public funds committed for that use by the City Council. Upon recommendation of the Commission, the City may sell resources

acquired under this section with protective easements included in the property transfer documents, if appropriate. If a resource is acquired by eminent domain, the City Council shall follow the procedures specified in the uniform condemnation procedures act, 1980 PA 87, being MCL 213.51, *et seq.*

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**Section 25. HISTORIC DISTRICT BOUNDARY**

The Historic District enacted by this Ordinance shall generally be described as the East Portion of Ludington Avenue in the City of Ludington and more particularly described as follows:

That part of the NW ¼, Section 13, T6N, R11W, City of Ludington, Mason County, Michigan, described as: Beginning at a point on the West line of said NW ¼, which is N 02D 22' West 25.0 feet from the West ¼ corner of Section 13; thence N02D 22' West 200 feet along said West line; thence S 89D 59' 20" East 233.0 feet parallel with the South line of said NW ¼; thence S 02D 22' East 200.0 feet' thence N 89D 59' 20" West 233.0 feet to the Place of Beginning. Subject to highway right-of-way for East Paris Avenue over the Westerly 33 feet thereof. This parcel contains 1.069 acres, including highway right-of-way.

ORDINANCE DECLARED PASSED.

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Deborah L. Luskin, Clerk

**CERTIFICATION**

I, Deborah L. Luskin, Ludington City Clerk, do hereby certify that the foregoing is a true and original copy of the Ordinance adopted by the Ludington City Council at its regular meeting thereof held on the \_\_\_ day of \_\_\_\_\_.

Ludington City Clerk

\_\_\_\_\_  
Deborah L. Luskin