

A RESOLUTION THAT THE BOARD OF COMMISSIONERS ADOPT AN ORDINANCE DESIGNATING MCMAHON SPRINGS AS A WASHTENAW COUNTY HISTORIC DISTRICT UNDER THE JURISDICTION OF THE WASHTENAW COUNTY HISTORIC DISTRICT COMMISSION

WASHTENAW COUNTY BOARD OF COMMISSIONERS

July 7, 2004

WHEREAS, the property located at 2426 Whitmore Lake Road in Ann Arbor Township had potential to be nominated as a historic district; and

WHEREAS, in 2001 Ann Arbor Township asked the Washtenaw County Board of Commissioners via the Washtenaw County Historic District Commission to have the property listed as a historic district; and

WHEREAS, under Michigan's Historic Districts Act (P.A. 169 of 1970, as amended in 1992), a historic district study committee must be established to evaluate the property and determine if it meets criteria to be included in a historic district; and

WHEREAS, under P.A. 169, the County Board of Commissioners has the authority to establish such a historic district committee; and

WHEREAS, on March 6, 2002, the Washtenaw County Board of Commissioners passed resolution 02-0034 authorizing the Historic District Study Committee to study the McMahan Springs property; and

WHEREAS, the preliminary report by the study committee was issued on December 31, 2003 and on February 5, 2004 the Washtenaw County Historic District Commission reviewed and recommended approval of the proposal to create a historic district for McMahan Springs; and

WHEREAS, on March 18, 2004 a Public Hearing was held in Ann Arbor Township to discuss the proposal; and

WHEREAS, on June 1, 2004 McMahan Springs Final Report was issued, with a recommendation that the Board of Commissioners adopt an ordinance designating McMahan Springs as a Washtenaw County Historic District under the jurisdiction of the Washtenaw County Historic District Commission; and

WHEREAS, this matter has been reviewed by Corporation Counsel, Finance, Human Resources, the County Administrator's Office and the Ways and Means Committee;

NOW THEREFORE BE IT RESOLVED that the Washtenaw County Board of Commissioners hereby accepts McMahan Springs Final Report, as on file with the County Clerk.

BE IT FURTHER RESOLVED that the Board of Commissioners hereby adopt the ordinance designating McMahan Springs as a Washtenaw County Historic District under the jurisdiction of the Washtenaw County Historic District Commission, as attached hereto and made a part hereof.

COMMISSIONER	Y	N	A	COMMISSIONER	Y	N	A	COMMISSIONER	Y	N	A
Armentrout	X			Irwin	X			Sizemore	X		
Bergman	X			Kern	X			Solowczuk			X
Brackenbury	X			Peterson	X			Yekulis	X		
Gunn	X			Prater	X						

CLERK/REGISTER'S CERTIFICATE - CERTIFIED COPY                      ROLL CALL VOTE: TOTALS                      10   0   1

STATE OF MICHIGAN                      )  
 COUNTY OF WASHTENAW)<sup>SS</sup>.

I, Peggy M. Haines, Clerk/Register of said County of Washtenaw and Clerk of Circuit Court for said County, do hereby certify that the foregoing is a true and accurate copy of a resolution adopted by the Washtenaw County Board of Commissioners at a session held at the County Administration Building in the City of Ann Arbor, Michigan, on July 7, 2004, as it appears of record in my office.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of said Court at Ann Arbor, this \_\_\_\_\_ day of \_\_\_\_\_.

**PEGGY M. HAINES, Clerk/Register**

BY: \_\_\_\_\_

Deputy Clerk



**Res. No. 04-0144**

# AN ORDINANCE ESTABLISHING MCMAHON SPRINGS HISTORIC DISTRICT

The County of Washtenaw ordains:

In accordance with the Washtenaw County Historic Preservation Ordinance, passed pursuant to Public Act 169 of 1970, as amended in 1992, MCLA 399.201 et seq., and in accordance with an agreement between Washtenaw County and the Township of Ann Arbor, dated March 6, 2002 the following district is established and shall be preserved and maintained in accordance with that Historic District Preservation Ordinance:

## Section 1. Description of District

McMahon Springs Historic District shall include part of Section 17 of Ann Arbor Township, described as:

### **LEGAL DESCRIPTION OF PARCEL**

\*OLD SID - I 09-017-053-00 (17-32-) COM AT E 1/4 POST COM AT E 1/4 COR OF SEC 17, TH W 1366.97 FT ON EW 1/4 LNTH DEFL 90-14 LFT 329.2 FT TO POB, TH DEFL 89-46 LFT 660 FT, TH DEFL 89-46 RT 330 FT, TH DEFL 90-14 RT 660 FT, TH DEFL 89-46 RT 330 FT TO POB, EXC THAT PART SE OF FOLLOW- ING LN: COM AT E 1/4 COR, TH S 1-29-40 E 521.49 FT, TH N 78-9-39 W 525.6 FT, TH N 11-50-21 E 110 FT TO POB TH 479.82 FT ON ARC OF CURV-RAD777.11 FT, TH S 23-33-45 E 30 FT, TH 65.67 FT ON ARC OFCURV-RAD 747.11 FT, TH S 28-35-55 E 10 FT, TH 291.75 FT ON ARC OF CURV-RAD 737.11 FTTH 102.22 FT ON ARC OF CURV-RAD 449.53 FT TO POE PART SE 1/4 SEC 17 T2S R6E 1.40 AC

The Washtenaw County Board of Commissioners finds that the addition of McMahon Springs Historic District promotes the public welfare. Any other resource or a group of resources that are related by history, architecture, archaeology, engineering, or culture (MCL 399.201(a)j ) to this resource in Ann Arbor Township, and deemed eligible to be a historic district in the future by the Washtenaw County Board of Commissioners will be included in this ordinance, and the ordinance will be amended to include its legal description.

## Section 2. Protective Clauses

- A. Before any work requiring a permit that effects the exterior appearance of a resource is made within a historic district, the person, individual, partnership, firm, corporation, organization, institution, or agency of government proposing to do that work shall file an application for a permit with the inspector of buildings and zoning inspector of Ann Arbor Township or other duly delegated authority. If the inspector of buildings or other authority receives the application, the application shall be immediately referred to the Washtenaw County Historic District Commission together with all required supporting materials including but not limited to architectural drawings, site plans, specifications, samples of proposed materials to be used, informational brochures, proposed work schedule, and name of architect and contractors to be used via fax or mail. 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.
- B. In reviewing plans the Commission shall follow the U. S. secretary of the interior's standards for rehabilitation and guidelines for rehabilitating historic buildings, as set forth in 36 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 SHPO. The Commission shall also consider all of the following:

1. The historical and/or architectural value and significance of the resource and its relationship to the historical value of the surrounding area.
  2. The relationship of any architectural features of such resource to the rest of the resource and to the surrounding area.
  3. The general compatibility of exterior design, arrangement, texture, and materials proposed to be used.
  4. Any other factor, such as aesthetic value, that the Commission finds relevant.
- C. The Commission shall review and act only upon exterior features of a resource. The Commission may review and act upon interior arrangements only when specifically authorized to do so by the local legislative body or when interior work will cause visible change to the exterior of the resource. The Commission shall disapprove applications only on the basis of the considerations set forth in the previous paragraph.
- D. If an application for work affecting the exterior appearance of a resource which the Commission deems so valuable to the county, state, or nation that the loss thereof will adversely affect the public purpose of the county, state, or nation the Commission shall endeavor to work out with the owner of the resource an economically feasible plan for preservation of the resource.
- E. Work within a historic district shall be permitted through the issuance of a notice to proceed by the Commission if any of the following conditions prevail and if the proposed work can be demonstrated by a finding of the Commission to be necessary to substantially improve or correct any of the following conditions:
1. The resource constitutes a hazard to the safety of the public or to the structure's occupants.
  2. The resource is a deterrent to a major improvement program that will be of substantial benefit to the community and the applicant proposing the work has obtained all necessary planning and zoning approvals, financing, and environmental clearances.
  3. Retention of the resource will cause undue financial hardship to the owner when a governmental action, an act of God, or other events beyond the owner's control created the hardship, and all feasible alternatives to eliminate the financial hardship, which may include offering the resource for sale at its fair market value or moving the resource to a vacant site within the historic district, have been attempted and exhausted by the owner.
  4. Retention of the resource is not in the interest of the majority of the community as determined by the Commission.
- F. 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 act.
- G. The Commission may delegate the issuance of certificates of appropriateness for specified minor classes of work to its staff, to the inspector of buildings, or to another delegated authority. The Commission shall provide to the delegated authority specific written standards for issuing certificates of appropriateness under this subsection. On at least a quarterly basis, the Commission shall review the certificates of appropriateness, if any, issued for work by its staff, the inspector, or

another authority to determine whether or not the delegated responsibilities should be continued.

### Section 3. Commission Determination

- A. The Commission shall file certificates of appropriateness, notices to proceed, and denials of applications for permits with the Ann Arbor Township inspector of buildings or other duly delegated authorities. A permit shall not be issued until the Commission has acted as prescribed by this act. If a permit application is denied, the decision shall be binding on the inspector or other authority. A denial shall be accompanied with a written explanation by the Commission of the reasons for denial and, if appropriate, a notice that an application may be resubmitted for Commission review when suggested changes have been made to the proposal. The denial shall also include notification of the applicant's rights of appeal first to the state historic preservation review board and to the circuit court. The failure of the Commission to act within sixty (60) calendar days after the date a complete application is received by the Washtenaw County Historic District Commission, unless the applicant and the Commission agree in writing upon an extension, shall be considered to constitute approval.
- B. Local public officials and employees shall provide information and records to study committees, standing committees, and the Commission, and shall meet with those bodies upon request to assist with their activities.
- C. When work has been done upon a resource without a permit, and the Commission finds that the work does not qualify for a certificate of appropriateness, the Commission may require an owner to restore the resource to the condition the resource was in before the unapproved work or to modify the work so that it qualifies for a certificate of appropriateness. If the owner does not comply with the restoration or modification requirement within a reasonable time, the Commission may seek an order from the circuit court to require the owner to restore the resource to its former condition or to modify the work so that it qualifies for a certificate of appropriateness. If the owner does not comply or cannot comply with the order of the court, the Commission or its agents may enter the property and conduct work necessary to restore the resource to its former condition or modify the work so that it qualifies for a certificate of appropriateness in accordance with the court's order. The costs of the work shall be charged to the owner, and may be levied by the local unit as a special assessment against the property. When acting pursuant to an order of the circuit court, a Commission or its agents may enter a property for purposes of this section.

- D. An applicant aggrieved by a decision of the Commission concerning a permit application may file an appeal with the state historic preservation review board of the Michigan historical commission within the department of state pursuant to Section 7 of this ordinance.

#### Section 4. Acquisition of Property

If all efforts by the Historic District Commission to preserve a resource fail, or if it is determined by the County Board of Commissioners and the local legislative body that public ownership is most suitable, the Board of Commissioners, 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. Such acquisition shall be based upon the recommendation of the Historic District Commission or standing committee. The Historic District Commission or standing committee is responsible for maintaining publicly owned resources using its own funds, if not specifically earmarked for other purposes, or public funds committed for that use by the Board of Commissioners. Cooperative programs of purchase ownership and management in the public interest may also be worked out with other local commissions and societies. Upon recommendation of the Commission or standing committee, the local unit may sell resources acquired under this section with protective easements included in the property transfer documents, if appropriate.

#### Section 5. Ordinary Maintenance

Nothing in this act shall be construed to prevent ordinary maintenance or repair of a resource within a historic district, or to prevent work under a permit issued by the inspector of buildings or other duly delegated authority before the ordinance was enacted.

#### Section 6. Neglect of Maintenance

- A. No person shall permit a resource under his or her ownership or control within an historic district to deteriorate resulting in any of the following conditions, each of which constitutes demolition by neglect:
1. A deterioration of foundations, exterior walls or other vertical supports.
  2. A deterioration of roofs or other horizontal members.
  3. A deterioration of exterior chimneys.
  4. The deterioration or crumbling of exterior plaster or mortar.
  5. The ineffective weatherproofing of exterior walls, roofs and foundations including broken windows or doors.
  6. A deterioration of any exterior architectural feature so as to create or permit the creation of a hazardous or unsafe condition or conditions which in the judgment of the Commission produces a detrimental effect upon the character of the district as a whole and the life and character of the resource in question.
- B. The Historic District Commission on its own initiative may file a petition with the Ann Arbor Township Inspector of Buildings requesting that said office proceed to require the repair of or correction of defects in any structure covered by this article, so that such structure may be preserved and protected in consonance with the purpose of this ordinance.
- C. Upon a finding by a Commission that a historic resource within a historic district or a proposed historic district subject to its review and approval is threatened with demolition by neglect, the Commission may do the following:

1. Require the owner of the resource to repair all conditions contributing to demolition by neglect.
2. If the owner does not make repairs within a reasonable time, the Commission or its agents may enter the property and make such repairs as are necessary to prevent demolition by neglect. The costs of the work shall be charged to the owner, and may be levied by the local unit as a special assessment against the property. The Commission or its agents may enter the property for purposes of this section upon obtaining an order from the circuit court.
3. Seek a court order from the circuit court compelling the property owner to remove those causes threatening the historic resource with demolition by neglect.

#### Section 7. Appeal

Any citizen or duly organized historic preservation organization in the County, as well as resource property owners, jointly or severally aggrieved by a decision of the Historic District Commission may appeal the decision to the circuit court except that a permit applicant aggrieved by a decision rendered under section 2 may not appeal to the court without first exhausting the right to appeal to the state historic preservation review board. The appeal shall be filed within 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. A permit applicant aggrieved by the decision of the state historic preservation review board may appeal the decision to the circuit court having jurisdiction. That court will be the court having jurisdiction over the historic district commission whose decision was appealed to the state historic preservation review board.

#### Section 8. Separability

Should any sections, subdivisions, sentence, clause, phrase of the ordinance be declared by the courts to be invalid the same shall not effect the validity of the ordinance as a whole or in any part thereof other than the part so invalidated.

#### Section 9. Effective Date

This ordinance shall take effect immediately upon compliance with the statutes relative thereto.

#### Section 10. Penalties

- A. A person, individual, partnership, firm, corporation, organization, institution, or agency of government that violates any provision of this ordinance is responsible for a civil violation and may be fined not more that \$5000.00.

B. A person, individual, partnership, firm, corporation, organization, institution, or agency of government that violates this act may be ordered by the court to pay the costs to restore or replicate a resource unlawfully constructed, added to, altered, repaired, moved, excavated, or demolished.

In Witness Whereof, this ordinance is hereby executed this \_\_\_\_\_ day of \_\_\_\_\_, 2004

ATTESTED TO:

COUNTY OF WASHTENAW

BY: \_\_\_\_\_  
Peggy M. Haines  
County Clerk  
Washtenaw County

BY: \_\_\_\_\_  
Leah Gunn, Chair  
Washtenaw County  
Board of Commissioners