

DIVISION 1. - GENERALLY

Sec. 21-2-1. - Purpose.

Historic preservation is declared to be a public purpose, and the City may regulate the construction, reconstruction, addition, alteration, repair, moving, excavation, and demolition of resources in historic districts within the limits of the City as provided in this article. The purposes of this article are to:

- (1) Safeguard the heritage of the City by preserving areas in the City which reflect elements of its cultural, social, spiritual, economic, political, engineering, or architectural history or its archeology;
- (2) Stabilize and improve property values in each historic district and the surrounding areas;
- (3) Foster civic beauty and community pride;
- (4) Strengthen the local economy; and
- (5) Promote the use of historic districts for the education, pleasure, and welfare of the People of the City, the state, and the United States of America.

(Code 1964, § 28A-1-1; Code 1984, § 25-2-1; Ord. No. 15-04, § 1(25-2-1), eff. 5-7-2004)

State Law reference— Similar provisions, MCL 399.202.

Sec. 21-2-2. - Definitions.

For purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Act means the Michigan Local Historic Districts Act, being MCL 399.201 *et seq.*

Alteration means work that changes the detail of a resource but does not change its size or shape, including, but not limited to, change of surface treatment or change of color.

Certificate of appropriateness means the written approval of a permit application for work that is appropriate and does not adversely affect a resource, pursuant to a finding under Section 21-2-73 of this Code.

Demolition means the razing or destruction, whether entirely or in part, of a resource, including, but not limited to, demolition by neglect.

Demolition by neglect means neglect in the maintenance, repair or security of a resource resulting in

deterioration of an exterior feature of the resource, the loss of structural integrity of the resource, or any of the following conditions:

- (1) The deterioration of exterior walls or other vertical supports;
- (2) The deterioration of roofs or other horizontal members;
- (3) The deterioration of exterior chimneys;
- (4) The deterioration of exterior plaster, or mortar or stucco;
- (5) The ineffective weatherproofing of exterior walls, roofs and foundations, including broken windows and doors; or
- (6) The serious deterioration of any documented exterior architectural feature or significant landscape feature which, in the judgment of the Historic District Commission, produces a detrimental effect upon the character of the district.

Denial means the written rejection of a permit application for work that is inappropriate and that adversely affects a resource.

Elements of design are the characteristic relationships of the various features within an historic district which are significant to the appearance of the district and to be defined for each historic district are:

- (1) Height;
- (2) Proportion of buildings' front façades;
- (3) Proportion of openings within the façades;
- (4) Rhythm of solids to voids in front façades;
- (5) Rhythm of spacing of buildings on streets;
- (6) Rhythm of entrance and/or porch projections;
- (7) Relationship of materials;
- (8) Relationship of textures;
- (9) Relationship of colors;
- (10) Relationship of architectural details;
- (11) Relationship of roof shapes;
- (12) Walls of continuity;
- (13) Relationship of significant landscape features and surface treatments;
- (14) Relationship of open space to structures;
- (15) Scale of façades and façade elements;
- (16) Directional expression of front elevations;

- (17) Rhythm of building setbacks;
- (18) Relationship of lot coverages;
- (19) Degree of complexity within the façades;
- (20) Orientation, vistas, overviews;
- (21) Symmetric or asymmetric appearance; and
- (22) General environmental character.

Historic Designation Advisory Board means the standing committee established by Section 21-2-21 of this Code.

Historic district means a district designated by the City Council for the purposes of this article. An historic district shall include 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, archeology, engineering, or culture of particular significance to the City, the state or the United States of America.

Historic District Commission means the Commission established in accordance with Division 3 of this article.

Historic preservation means the identification, evaluation, establishment, and protection of resources significant in history, architecture, archeology, engineering or culture.

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, state or the United States of America.

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 21-2-75 of this Code.

Open space means undeveloped land, a naturally landscaped area, or a formal or manmade landscaped area that provides a connective link or a buffer between other resources.

Ordinary maintenance means keeping a resource unimpaired and in good condition through ongoing minor intervention, undertaken from time to time, in its exterior condition, which does not change the external appearance of the resource except through the elimination of the usual and expected effects of weathering or constitute work for purposes of this article but does not mean any activity that meets the definition of the term "alteration."

Proposed historic district means an area, or a group of areas not necessarily having contiguous boundaries, that has defined boundaries and that is under study by the Historic Designation Advisory Board for the purpose of making a recommendation to the City Council for designation under Section

21-2-31(a) of this Code.

Repair means to restore a decayed or damaged resource to a good or sound condition by any process. A repair that changes the external appearance of a resource constitutes work for purposes of this article.

Resource means one or more publicly or privately owned historic or non-historic buildings, structures, sites, objects, features, or open spaces located within an historic district, including, but not limited to, fences, walls, significant landscape features, surface textures, and street furniture.

Work means construction, addition, alteration, repair, moving, excavation, or demolition.

(Code 1964, § 28A-1-2; Code 1984, § 25-2-2; Ord. No. 15-04, § 1(25-2-2), eff. 5-7-2004)

Cross reference— Definitions and rules of construction generally, § 1-1-2.

State Law reference— Similar definitions, MCL 399.201a.

Sec. 21-2-3. - Violation; civil fine; payments of costs.

- (a) It shall be unlawful for any person to violate any provision of this article.
- (b) In accordance with Section 15 of the Michigan Local Historic District Act, being MCL 399.215, a person or individual who, or a partnership, firm, corporation, organization, institution, or agency of government which, violates this article:
 - (1) Is responsible for a civil violation and may be fined not more than \$5,000.00 by a court; and
 - (2) May be ordered by a court to pay the costs to restore or replicate a resource unlawfully constructed, added to, altered, repaired, moved, excavated, or demolished.

Sec. 21-2-4. - Ordinary maintenance permitted.

Nothing in this article shall be construed to prevent ordinary maintenance of any structure within any historic district.

(Code 1964, § 28A-1-8; Code 1984, § 25-2-6; Ord. No. 15-04, § 1(25-2-6), eff. 5-7-2004)

Sec. 21-2-5. - Effects of projects on districts.

- (a) The head of any City agency having direct or indirect jurisdiction over a proposed City or City-assisted physical development project and/or the head of any City agency or authority

or corporation established by the City having discretionary power to finance, license, permit, authorize or contract for any physical development project shall take into account, prior to authorization, or approval, or denial, the effect of the proposed project on any designated or proposed historic district. If the proposed project is within or immediately adjacent to a designated or proposed historic district, the responsible agency or authority or corporation shall immediately so advise the Historic District Commission and shall comply with all reasonable requests of the Historic District Commission for information on the proposed project. The Historic District Commission shall determine the demonstrable effects of the proposed project and report same to the Mayor and City Council within 60 days of being advised of the proposed project by the responsible agency, authority or corporation. This section shall not be construed to require a delay or interruption in project activities pending the completion of the Historic District Commission's review and report or to diminish the rights and powers held by the Mayor and City Council with respect to such project activities.

- (b) A City-financed, licensed, permitted, authorized or contracted physical development project shall be considered to have a demonstrable effect on a designated or proposed historic district when any condition of the project creates a change, beneficial or adverse, in the quality of the historical, architectural, archeological, engineering, social or cultural significance that qualified the property for designation as an historic district or that may qualify the property for designation as an historic district. Generally, adverse effects occur under conditions which include:
- (1) Destruction or alteration of all or part of a resource;
 - (2) Isolation from or alteration of the surrounding environment of a resource;
 - (3) Introduction of visual, audible, or atmospheric elements that are out of character with the resource and its setting;
 - (4) Transfer or sale of a City-owned resource without adequate conditions or restrictions regarding preservation, maintenance, or use; and
 - (5) Neglect of a resource resulting in its deterioration or destruction.

(Code 1964, § 28A-1-10; Code 1984, § 25-2-7; Ord. No. 15-04, § 1(25-2-7), eff. 5-7-2004)

Sec. 21-2-6. - Subjects of budgeting.

There may be appropriated in the annual budget a sum of money which may be expended for historical and architectural preservation for or in connection with:

- (1) The preparation of surveys of resources and historic resources in the City;

- (2) The restoration, rehabilitation, or preservation of historic resources;
- (3) The acquisition by purchase or condemnation of resources, historic resources, easements or other rights, or other real or personal property, provided, that the City Council determines ownership is in the public interest. The Historic District Commission shall make recommendations to the City Council on such resources, historic resources, easements, other rights, or real or personal property to be acquired. The City shall be responsible for the maintenance of resources and historic resources so acquired. Resources, historic resources, easements, or other rights, or other real or personal property acquired hereunder may be sold or transferred upon the recommendation of the Historic District Commission and the approval of the City Council;
- (4) Staff support appropriate for the implementation of this article;
- (5) Training for all staff and public officials responsible for the implementation of this chapter especially to provide the technical knowledge of the principles, practicality and cost of historic preservation;
- (6) Programs of special assistance to property owners in designated and proposed historic districts in restoring, rehabilitating or conserving resources and historic resources where property owners lack means to undertake such work without assistance;
- (7) Programs of general assistance to property owners in designated and proposed historic districts, including, but not limited to, education, consultation, research assistance and assistance in locating contractors offering unique services required in historic preservation work; and
- (8) Programs to recognize property owners, or historic preservation achievements, including, but not limited to, the award of certificates or plaques for display by property owners.

(Code 1964, § 28A-1-11; Code 1984, § 25-2-9; Ord. No. 15-04, § 1(25-2-9), eff. 5-7-2004)

Sec. 21-2-7. - Severability.

It is hereby declared to be the legislative intent that the various provisions of this article are separable, in accordance with the following:

- (1) *Provisions held invalid.* If a court of competent jurisdiction finds any provision of this article invalid or ineffective in whole or in part, the effect of such decision shall be limited to that provision which is expressly stated in the decision to be invalid or

ineffective, and all other provisions of this article shall continue to be separately and fully effective.

- (2) *Applications of provisions held invalid.* If a court or competent jurisdiction finds the application of any provision of this article to any resource or tract of land to be invalid or ineffective, in whole or in part, the effect of such decision shall be limited to the party, resource, and property immediately involved in the controversy and shall not affect any other party, resource, or property.

(Code 1964, § 28A-1-13; Code 1984, § 25-2-11; Ord. No. 15-04, § 1(25-2-11), eff. 5-7-2004)

Secs. 21-2-8—21-2-20. - Reserved.

DIVISION 2. - HISTORIC DESIGNATION ADVISORY BOARD

Footnotes:

--- (4) ---

Cross reference— *City residency required for appointment and re-appointment to City board or commission, § 2-4-1; City Clerk to verify residency when taking and subscribing oath of office for members of City boards and commissions, § 2-4-2; ethics, § 2-5-1 et seq.*

State Law reference— *Study committee, MCL 399.203.*

Sec. 21-2-21. - Establishment.

The City Council shall establish an Historic Designation Advisory Board which shall be a standing committee as defined in the Act.

(Code 1964, § 28A-1-4; Code 1984, § 25-2-34; Ord. No. 15-04, § 1(25-2-34), eff. 5-7-2004)

Sec. 21-2-22. - Composition.

All members of the Historic Designation Advisory Board shall be residents of the City. The Historic Designation Advisory Board shall have a majority of persons who have a clearly demonstrated interest in or knowledge of historic preservation. Nine members of the Historic Designation Advisory Board shall be permanent members with full voting privileges. The Director of the City Planning Commission, the Director of the Planning and Development Department, and the Director of the Historical Department shall be permanent, non-voting *ex officio* members of the Historic Designation Advisory Board. An *ex officio* member may designate another member of such member's staff to fill such member's position. The nine permanent members of the Historic Designation Advisory Board shall be appointed by the City Council and shall include at least one representative from any existing historical preservation society,

including, but not limited to, historic district associations.

(Code 1964, § 28A-1-4; Code 1984, § 25-2-35; Ord. No. 15-04, § 1(25-2-35), eff. 5-7-2004; Ord. No. 38-07, § 1(25-2-35), eff. 12-26-2007)

Sec. 21-2-23. - Ad hoc members.

Two *ad hoc* members shall be appointed to the Historic Designation Advisory Board to represent each proposed historic district under consideration. *Ad hoc* members shall have voting privileges only on matters concerning the area they represent. *Ad hoc* members shall be property owners, residents or other persons having a demonstrated special affiliation with the area under consideration. When only a single resource constitutes the proposed historic district, at least one of the *ad hoc* members shall be an owner, or part owner of the resource. An owner or part owner so appointed may designate a person to represent the owner or part owner on the Board. *Ad hoc* members must be residents of the City except in a case where no resident is available to represent the ownership interest as required herein, in which case a nonresident may serve. The *ad hoc* members shall be appointed within 21 days from the date of City Council action authorizing the Historic Designation Advisory Board to conduct a study of the proposed district.

(Code 1964, § 28A-1-4; Code 1984, § 25-2-36; Ord. No. 15-04, § 1(25-2-36), eff. 5-7-2004)

Sec. 21-2-24. - Terms.

Appointments of permanent members of the Historic Designation Advisory Board shall be for three years on a staggered term basis. Terms of *ad hoc* members or the termination of consideration of their area for designation as an historic district. Permanent members shall be eligible for reappointment.

(Code 1964, § 28A-1-4; Code 1984, § 25-2-37)

Sec. 21-2-25. - Removal of appointed members.

Appointed members of the Historic Designation Advisory Board shall be removable only for cause.

(Code 1964, § 28A-1-4; Code 1984, § 25-2-38)

Sec. 21-2-26. - Filling of vacancies.

Vacancies for the unexpired term of an appointed position on the Historic Designation Advisory Board may be filled by appointment by the City Council.

(Code 1964, § 28A-1-4; Code 1984, § 25-2-39)

Sec. 21-2-27. - Meetings.

The Historic Designation Advisory Board shall conduct regularly scheduled meetings. All meetings of the Historic Designation Advisory Board shall be open to the public. A majority of members serving and eligible to vote shall constitute a quorum with respect to matters before the Historic Designation Advisory Board. Notices of meetings, including an agenda of matters to be considered, shall be mailed to all known property owners, organizations, community organizations and citizens district councils in any area to be considered for designation at such meetings. Notices of all meetings, including an agenda of matters to be considered, shall be mailed to any existing historical preservation societies in the City, including, but not limited to, any historic district association, the Mayor, the City Council, the City Planning Commission, the Planning and Development Department, the Historical Department and the Historic District Commission. Interested persons shall be given reasonable opportunity to be heard on any matter before the Historic Designation Advisory Board before the Body reaches a decision. The Historic Designation Advisory Board shall keep a record, which shall be open to public view, of its resolutions, proceedings and actions.

(Code 1964, § 28A-1-4; Code 1984, § 25-2-40; Ord. No. 15-04, § 1(25-2-40), eff. 5-7-2004)

Sec. 21-2-28. - Staff and assistance.

The Historic Designation Advisory Board shall be provided with reasonable staff assistance by assignment of independent staff and/or by the City Planning Commission and/or by executive branch departments, upon the request of the Historic Designation Advisory Board. The Historic Designation Advisory Board also may utilize the services of volunteer consultants and paid consultants within the limits of available funding.

(Code 1964, § 28A-1-1; Code 1984, § 25-2-41)

Sec. 21-2-29. - Reports and hearings.

- (a) The Historic Designation Advisory Board shall conduct studies for each proposed historic district, including:
 - (1) A photographic inventory of resources;
 - (2)

Basic research for each proposed historic district and the resources within that district;

- (3) Determination of the total number of historic and non-historic resources and the percentage of historic resources located within each district. In determining the significance of resources, the Board shall be guided by the criteria for inclusion in the National Register of Historic Places as set forth in 36 CFR Part 60, and criteria established or approved by the Michigan State Housing Development Authority, if any.
- (b) The Historic Designation Advisory Board's preliminary report shall address at a minimum the charge to the Board, the composition of the Board membership, the historic districts being considered, the boundaries of the proposed historic districts in both writing and on maps, the history of each proposed district, and 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 report may be reviewed by those agencies specified in Section 21-2-31(d) of this Code.
- (c) The Historic Designation Advisory Board shall conduct a public hearing on a proposed historic district designation after due notice to all property owners in the proposed historic district as listed on the tax rolls, at which time the requirements, procedures, standards, and responsibilities of historic district designation shall be generally explained. Notice of the hearing shall be mailed by first class mail not less than 14 calendar days before the hearing.
- (d) The Historic Designation Advisory Board's final report to the City Council shall contain the recommendation of the Historic Designation Advisory Board and a draft of the proposed ordinance establishing the new historic district, including the definitions of the elements of design.

(Code 1964, § 28A-1-1; Code 1984, § 25-2-42; Ord. No. 15-04, § 1(25-2-42), eff. 5-7-2004)

Sec. 21-2-30. - Listing of potential districts.

The Historic Designation Advisory Board shall also maintain a current listing of potential historic districts and a brief statement of significance for each. Such listing shall be made available to the City Planning Commission and the Planning and Development Department for consideration relative to the Detroit Master Plan of Policies. Such listings also shall be made available to the Historical Department.

(Code 1964, § 28A-1-1; Code 1984, § 25-2-43; Ord. No. 15-04, § 1(25-2-43), eff. 5-7-2004)

Sec. 21-2-31. - Establishment of historic districts.

- (a) Upon the receipt of a request to City Council from any person residing, doing business, or owning property in the City to designate an area, a resource, or resources as an historic district, the City Council, after making a determination that there are reasonable grounds for such a request, may adopt a resolution directing that the Historic Designation Advisory Board make a study to determine whether the proposed district meets the criteria for designation under the provisions of this article.
- (b) After the adoption of a resolution directing the Historic Designation Advisory Board to study a proposed historic district, the Historic District Commission shall review, for a period of up to one year from the date of the public hearing before the Historic Designation Advisory Board, all permit applications for work within the proposed historic district, for informational purposes only and shall inform the applicant of the existence of the request to have the area, structure, or site designated an historic district. This review period shall be extended by a resolution of the City Council extending the period of consideration of the proposed historic district, adopted pursuant to Subsection (d) of this section.
- (c) Upon receipt of substantial evidence demonstrating definite historical, architectural, archeological, engineering or cultural significance in a proposed historic district, the City Council may adopt, at its discretion, a resolution of interim historic designation, requiring that all permit applications for work within the proposed historic district be referred to the Historic District Commission as provided for in Division 2 of this article. For a period of one year after adoption of such a resolution, the Historic District Commission shall review permit applications for work within such proposed historic districts with the same powers which would apply if the proposed historic district were a designated historic district, notwithstanding provisions to the contrary elsewhere in this article. After the expiration of the one-year period following adoption of such a resolution, the Historic District Commission review shall be for informational purposes only, as provided in Subsection (b) of this section and Section 21-2-78(b) of this Code. In reviewing permits for work in proposed historic districts, the Historic District Commission shall use the following criteria:
- (1) The architectural or historical value and significance of the structure or feature and its relationship to the historical value of the proposed historical district;
 - (2) The relationship of the exterior architectural features or landscape features to the remainder of the structure, site, or area forming the proposed historic district;
 - (3) Any other factor, including aesthetic, which the Historic District Commission deems to be pertinent; and
 - (4) The provisions of Section 21-2-75 of this Code.
- (d)

The Historic Designation Advisory Board shall survey and research the proposed historic district and prepare and transmit a preliminary report to the City Council, the Historic District Commission, the Planning and Development Department and the City Planning Commission. The survey, research, and report shall satisfy the requirements of the Michigan Local Historic Districts Act, being MCL 399.201 *et seq.* Copies of the report shall also be sent to the Michigan State Housing Development Authority, the Michigan Historical Commission, the Michigan State Historic Preservation Review Board and, if any part of an urban renewal district is under consideration for designation, the citizens district council for the district. The report shall also be made available to the public. Not sooner than 60 days after the transmittal of the preliminary report to the City Council, the Historic Designation Advisory Board shall conduct a public hearing after due notice as provided in Sections 21-2-27 and 21-2-29 of this Code. Thereafter, the Historic Designation Advisory Board shall submit its final report to the City Council with any written comments or recommendations received. The City Council shall act on a proposed designation within one year after the Historic Designation Advisory Board's public hearing, provided, that the City Council may extend, by resolution, the time for consideration of a proposed designation and for permit review.

- (e) At any time, the City Council may establish by ordinance additional historic districts, including proposed districts previously considered and rejected; modify boundaries of an existing historic district; and eliminate an existing historic district in accordance with the requirements and procedures of the Act. City zoning maps shall reflect established historic designations. When establishing any new historic district, the City Council shall certify that the designation is consistent with the Master Plan of Policies. In all historic district designations, the boundaries, and elements of design shall be specified in the ordinance of designation. An ordinance establishing an historic district, modifying the boundaries of an existing historic district, or eliminating an historic district, shall also be filed promptly with the Register of Deeds by the City Clerk after the ordinance becomes effective, in accordance with Section 4-118 of the Charter.
- (f) In evaluating the significance of resources to be included in the historic district, the Historic Designation Advisory Board and the City Council shall be guided by the criteria for inclusion in the National Register of Historic Places, as published at 36 CFR Part 60, and criteria established or approved by the Michigan State Housing Development Authority, if any. The Historic Designation Advisory Board shall make available to the public a document stating the criteria for historic designation.

(Code 1964, § 28A-1-3; Code 1984, § 25-2-4; Ord. No. 268-H, § 1(28A-1-3), eff. 8-4-1978; Ord. No. 15-04, § 1(25-2-4), eff. 5-7-2004)

State Law reference— Authority to establish historic districts, MCL 399.203.

Sec. 21-2-32. - Withdrawal of designation.

When an area is designated an historic district, the designation may not be withdrawn without the consent of a majority of the property owners within the district as listed on the tax rolls. When withdrawing historic designation from all or part of an historic district, the City Council and the Historic Designation Advisory Board shall follow the requirements of the Act.

(Code 1964, § 28A-1-15; Code 1984, § 25-2-8; Ord. No. 15-04, § 1(25-2-8), eff. 5-7-2004)

Secs. 21-2-33—21-2-50. - Reserved.

DIVISION 3. - HISTORIC DISTRICT COMMISSION

Footnotes:

--- (5) ---

Cross reference— *City residency required for appointment and re-appointment to City board or commission, § 2-4-1; City Clerk to verify residency when taking and subscribing oath of office for members of City boards and commissions, § 2-4-2; ethics, § 2-5-1 et seq.*

State Law reference— *Historic district commission, MCL 399.204.*

Sec. 21-2-51. - Established.

An Historic District Commission is hereby established.

(Code 1964, § 28A-1-5; Code 1984, § 25-2-50)

Sec. 21-2-52. - Composition.

The Historic District Commission shall be composed of seven members. Members shall be appointed by the Mayor, subject to the approval of the City Council. Members shall reside in the City. The membership shall include at least one architect duly registered in the state, with experience in historic preservation, selected from a list prepared by the local chapter of the American Institute of Architects, and at least two members selected from lists of citizens submitted by a duly organized and existing historical preservation society, including, but not limited to, historic district associations.

(Code 1964, § 28A-1-5; Code 1984, § 25-2-51)

Sec. 21-2-53. - Terms of members.

Appointments to the Historic District Commission shall be for three years on a staggered term basis

and shall expire on February 14th. Members shall be eligible for reappointment.

(Code 1964, § 28A-1-5; Code 1984, § 25-2-52; Ord. No. 15-04, § 1(25-2-52), eff. 5-7-2004)

Sec. 21-2-54. - Removal of members.

Members of the Historic District Commission shall be removable only for cause.

(Code 1964, § 28A-1-5; Code 1984, § 25-2-53)

Sec. 21-2-55. - Filling of vacancies.

Vacancies on the Historic District Commission shall be filled, for the unexpired term of the position, in the same manner as the original appointment. All vacancies, whether from expiration of terms or from resignation, removal, or other cause, shall be filled within 60 calendar days.

(Code 1964, § 28A-1-5; Code 1984, § 25-2-54; Ord. No. 15-04, § 1(25-2-54), eff. 5-7-2004)

Sec. 21-2-56. - Powers and duties.

Except as otherwise provided, the Historic District Commission shall be responsible for the implementation and administration of this article. This responsibility shall include the following powers and duties:

- (1) As provided by Section 21-2-31(d) of this Code, review Historic Designation Advisory Board reports and recommendations concerning proposed historic districts in relation to the Detroit Master Plan of Policies, the practical budgetary effects on City resources, legal implications for the owners, residents and the City, and the historical and architectural values of the district. Upon completion of any such review, the Historic District Commission may submit its recommendation to the City Council regarding the proposed historic district designation and elements of design, a copy of any such recommendation also shall be transmitted by the Historic District Commission to the Historic Designation Advisory Board;
- (2) Review permit applications as provided in Division 4 of this article for designated historic districts, interim historic districts, and proposed historic districts;
- (3) Request that the Buildings, Safety Engineering, and Environmental Department require the correction of defects or repairs on buildings in designated historic districts in conjunction with the provisions of Section 21-2-59(a) of this Code;
- (4) Review all City-licensed or funded physical development projects affecting

designated or proposed historic districts or which may have demonstrable effects on designated or proposed historic districts as provided in Section 21-2-4 of this Code;

- (5) Conduct regularly scheduled meetings. All meetings of the Historic District Commission shall be open to the public. A majority of members serving shall constitute a quorum. Notices shall be sent by first class mail not less than ten nor more than 20 days before a meeting. Notices of meetings, including an agenda of matters to be considered, shall be mailed to all known property owner organizations, community organizations, and citizens district councils in any proposed historic district or any designated district where a permit application is to be considered at such meetings. Notices of all meetings, including an agenda of matters to be considered shall be mailed to any existing historic preservation societies in the City, including, but not limited to, any historic district associations, the Mayor, the City Council, the Historic Designation Advisory Board, the Buildings, Safety Engineering, and Environmental Department, the City Planning Commission, the Planning and Development Department, and the Historical Department. Interested persons shall be given reasonable opportunity to be heard on any matter before the Historic District Commission before the Body reaches a decision. The Historic District Commission shall keep a record, which shall be open to public view, of its resolutions, proceedings and actions;
- (6) Advise the City Council and other City agencies in the administration of any gifts, purchase or sale of property, administration of a loan and grant program or tax incentive program, or any other program concerning historic preservation;
- (7) Promulgate guidelines defining documentation requirements for work in designated districts;
- (8) Make periodic inspections of designated districts for violations of this article;
- (9) Make available, without charge to the public, copies of the ordinance of designation and defined elements of design for any designated district.

(Code 1964, § 28A-1-5; Code 1984, § 25-2-55; Ord. No. 15-04, § 1(25-2-55), eff. 5-7-2004)

Sec. 21-2-57. - Staff.

- (a) Adequate staff for the Historic District Commission shall be provided by the Planning and Development Department or such other agency as the Mayor may designate.
- (b) The Historic District Commission may delegate the issuance of certificates of appropriateness for specified minor classes of work to its staff or to another delegated authority. The Historic District 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 Historic District Commission shall review the certificates of appropriateness, if any, issued for work by its staff or other delegated authority to determine whether or not the delegation of such authority should be continued.

(Code 1964, § 28A-1-5; Code 1984, § 25-2-57; Ord. No. 15-04, § 1(25-2-57), eff. 5-7-2004)

Sec. 21-2-58. - Participation in meetings by other departments and agencies.

The directors, or designees thereof, of the Buildings, Safety Engineering, and Environmental Department, the Planning and Development Department and the Historical Department shall have the right to participate in meetings of the Historic District Commission on the same basis as members, except that these officers or their designees shall not have voting rights on any matter taken up by the Historic District Commission, including matters of procedure, and shall not be counted as members for any purpose.

(Code 1964, § 28A-1-5; Code 1984, § 25-2-56; Ord. No. 15-04, § 1(25-2-56), eff. 5-7-2004)

Sec. 21-2-59. - Enforcement.

- (a) Where it is determined by the Historic District Commission that a resource in an historic district is being demolished by neglect, the Historic District Commission, on its own initiative, and to ensure that the resource shall be preserved and protected in consonance with the purposes of this article, may take the following actions:
 - (1) Require the owner of the resource to repair all conditions contributing to demolition by neglect; the Historic District Commission may also file a petition with the Buildings, Safety Engineering, and Environmental Department requesting that the Department require the correction of defects or necessary repairs of the structures.
 - (2) If the owner does not make the necessary repairs within a reasonable time, file a petition with the Planning and Development Department requesting that the Planning and Development Department, as the agent of the Historic District Commission and pursuant to an order from the circuit court, enter the property and cause the necessary corrections or repairs to be made and the cost, if not paid promptly by the property owner, to be reported to the Board of Assessors for levy as a special assessment against the property.
- (b) In addition to other enforcement rights created by this article, the requirements of an historic district may be enforced upon the complaint of any property owner or association

of property owners within the district. Any citizen or duly organized historic preservation organization in the City, 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 Division 4 of this article may not appeal to the court without first exhausting the right to appeal provided in Section 21-2-81 of this Code.

- (c) In cases where there is imminent danger of the loss of a designated historic resource, the Historic District Commission may request the Law Department to seek such injunctive relief as it deems necessary and appropriate to preserve the resource.
- (d) A person or individual who, or a partnership, firm, corporation, organization, institution, or agency of government performing work on a resource prior to the issuance of or contrary to conditions specified in a certificate of appropriateness or notice to proceed, or permit issued for work on a resource in violation of this article is subject to a civil fine under Section 21-1-3 of this Code.
- (e) A person or individual who, or a partnership, firm, corporation, organization, institution, or agency of government which, violates this article may be ordered by a court to pay the costs to restore or replicate a resource unlawfully constructed, added to, altered, repaired, moved, excavated, or demolished under Section 21-1-3 of this Code.

(Code 1964, § 28A-1-9; Code 1984, § 25-2-10; Ord. No. 15-04, § 1(25-2-10), eff. 5-7-2004)

Secs. 21-2-60—21-2-70. - Reserved.

DIVISION 4. - PERMIT FOR WORK WITHIN DISTRICT

Footnotes:

--- (6) ---

State Law reference— *Permit required, MCL 399.205.*

Sec. 21-2-71. - Required.

Before work commences within an historic district, an interim historic district, or proposed 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 Buildings, Safety Engineering, and Environmental Department. No work shall begin before the issuance of a permit.

(Code 1964, § 28A-1-6; Code 1984, § 25-2-18; Ord. No. 15-04, § 1(25-2-18), eff. 5-7-2004)

Sec. 21-2-72. - Application.

Upon receipt of a completed permit application for work under this division, the Buildings, Safety Engineering, and Environmental Department shall forward, within seven calendar days, the same, together with all necessary plans, specifications and supporting materials to the Historic District Commission. All plans, elevations, construction documents and any other information and documentation deemed necessary by the Historic District Commission to make the application complete and to determine the appropriateness of the proposed work shall be submitted to the Historic District Commission by the applicant before the application will be considered to have been received by the Buildings, Safety Engineering, and Environmental Department or by the Historic District Commission.

(Code 1964, § 28A-1-6; Code 1984, § 25-2-19; Ord. No. 15-04, § 1(25-2-19), eff. 5-7-2004)

Sec. 21-2-73. - Issuance of certificate of appropriateness.

The Historic District Commission shall approve a permit application for work which the Body determines to be appropriate in a designated or interim historic district through the issuance of a certificate of appropriateness. In reviewing plans for the issuance of a certificate of appropriateness, the Historic District 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 CFR Part 67, using those standards in relation to the defined elements of design for a designated historic district, to give consideration to the permit application. Design review standards and guidelines that address special design characteristics of historic districts administered by the Historic District Commission may be followed if they are equivalent in guidance to the Secretary of the Interior's standards and are established or approved by the Michigan State Housing Development Authority. The Historic District Commission shall also consider the following:

- (1) The historical or architectural value and significance of the resource and its relationship to the historical value of the surrounding area;
- (2) The relationship of any exterior architectural features of the resource to the remainder of the resource and to the surrounding area;
- (3) The general compatibility of the exterior design, arrangement, texture, and materials proposed to be used;
- (4) Any other factor, including aesthetic, which the Historic District Commission finds to be relevant.

(Code 1964, § 28A-1-6; Code 1984, § 25-2-20; Ord. No. 15-04, § 1(25-2-20), eff. 5-7-2004)

Sec. 21-2-74. - Emergency issuance.

Where it is determined by the Director of the Buildings, Safety Engineering, and Environmental Department that work is immediately necessary for the protection of public health and safety, the Buildings, Safety Engineering, and Environmental Department may issue a permit for the necessary work and shall immediately notify the Historic District Commission of that action.

(Code 1964, § 28A-1-6; Code 1984, § 25-2-21; Ord. No. 15-04, § 1(25-2-21), eff. 5-7-2004)

Sec. 21-2-75. - Issuance of notice to proceed.

Pursuant to the Act, an application for inappropriate work adversely affecting the exterior appearance of a resource, which work cannot be granted a certificate of appropriateness, shall be permitted by the Historic District Commission through the issuance of a notice to proceed if any of the following conditions prevail and if the Historic District Commission finds that the work is necessary to substantially improve or correct any of these conditions:

- (1) The resource constitutes a hazard to the safety of the public or the occupants;
- (2) The resource is a deterrent to a major improvement program that will be of substantial benefit to the community. Substantial benefit shall be found only if the applicant proposing the work has obtained all necessary planning and zoning approvals, financing, and environmental clearances, and the improvement program is otherwise feasible;
- (3) Retention of the resource would cause undue financial hardship to the owner. Undue financial hardship shall be found only 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 an appropriate vacant site within the historic district, have been attempted and exhausted by the owner;
- (4) Retention of the resource would not be in the interest of the majority of the community.

(Code 1964, § 28A-1-6; Code 1984, § 25-2-22; Ord. No. 15-04, § 1(25-2-22), eff. 5-7-2004)

Sec. 21-2-76. - Consideration of interior features.

The Historic District Commission may review and act upon interior features only if specifically authorized to do so in the section designating the historic district, or unless interior work will cause visible change to the exterior of the resource.

(Code 1964, § 28A-1-7; Code 1984, § 25-2-5; Ord. No. 15-04, § 1(25-2-5), eff. 5-7-2004)

Sec. 21-2-77. - Public hearing.

In cases of resource additions, demolitions, or new construction in a designated historic district, the Historic District Commission shall conduct a public hearing. The Historic District Commission may also conduct a public hearing on other historic preservation matters for informational purposes. All notices of public hearings shall be mailed to the applicant, all persons to whom any real property within 500 feet of any part of the premises in question is assessed, and the occupants or building managers within 500 feet of any part of the premises, all known property owner organizations, community organizations, and citizens district councils in the historic district or proposed historic district within which the premises is located, historic preservation societies in the City, including, but not limited to, any historic district associations, the Mayor, the City Council, the Historic Designation Advisory Board, the Buildings, Safety Engineering, and Environmental Department, The City Planning Commission, the Planning and Development Department and the Historical Department. The Historic District Commission shall conduct a public hearing no earlier than ten, nor more than 20 calendar days from the time the notice is mailed. Such notice shall include the time and place of the hearing and a general description of the nature of the work proposed.

(Code 1964, § 28A-1-6; Code 1984, § 25-2-23; Ord. No. 15-04, § 1(25-2-23), eff. 5-7-2004)

Sec. 21-2-78. - Determinations of Historic District Commission; review of applications in proposed districts for informational purposes only.

- (a) For work in designated or interim historic districts, within 60 calendar days after receipt of the a complete application by the Historic District Commission, or within such further time as the applicant and the Historic District Commission agree upon in writing, the Historic District Commission shall determine:
 - (1) Whether the proposed work will be appropriate according to the defined elements of design for the historic district and the Secretary of the Interior's standards for rehabilitation and guidelines for rehabilitating historic buildings (36 CFR Part 67), in which case the Historic District Commission will issue a certificate of appropriateness;
 - (2) Whether the proposed work will be inappropriate according to the Secretary's standards and the defined elements of design for the historic district, but is without substantial detriment to the public welfare and without substantial derogation from the intents and purposes of this article, and where one or more of the conditions of Section 21-2-75 of this Code have been met, in which case the Historic District

Commission may issue, in lieu of a certificate of appropriateness, a notice to proceed; or

- (3) Whether the proposed work will be inappropriate according to the Secretary's standards and the defined elements of design for the historic district, in which case the Historic District Commission will issue a denial. A denial shall be issued to the permit applicant in writing, accompanied by a written explanation by the Historic District Commission of the reasons for the denial and, if appropriate, a notice that the application may be resubmitted for the Historic District Commission's review when suggested changes have been made. The written notice of denial shall also include notification of the applicant's rights of appeal as provided for in Section 21-2-81 of this Code.

Where the Historic District Commission fails to act on a permit application within 60 calendar days after the date a complete application is filed with the Historic District Commission, or to act within such extended period of time as has been agreed to in writing by the Historic District Commission and the applicant, the Buildings, Safety Engineering, and Environmental Department shall issue to the applicant a permit for the proposed work as if the Historic District Commission had issued a certificate of appropriateness or a notice to proceed.

- (b) The Historic District Commission's review of permit applications for work in proposed historic districts shall be for informational purposes only unless the proposed historic district has been designated an interim historic district by the City Council.

(Code 1964, § 28A-1-6; Code 1984, §§ 25-2-24, 25-2-27; Ord. No. 15-04, § 1(25-2-24, 25-2-27), eff. 5-7-2004)

Sec. 21-2-79. - Historic District Commission decision forwarded to Buildings, Safety Engineering, and Environmental Department.

Where the Historic District Commission issues a certificate of appropriateness, or a notice to proceed, or a denial for proposed work in a designated or interim historic district, the Historic District Commission shall immediately forward its decision, together with the permit application, plans and specifications, to the Buildings, Safety Engineering, and Environmental Department.

(Code 1964, § 28A-1-6; Code 1984, § 25-2-25; Ord. No. 15-04, § 1(25-2-25), eff. 5-7-2004)

Sec. 21-2-80. - Effect of denial.

If the Historic District Commission issues a denial, the Buildings, Safety Engineering, and Environmental Department, upon receipt of the Historic District Commission's decision, shall be bound

by the Commission's decision and deny the applicant a permit for the proposed work.

(Code 1964, § 28A-1-6; Code 1984, § 25-2-26; Ord. No. 15-04, § 1(25-2-26), eff. 5-7-2004)

Sec. 21-2-81. - Appeal of decisions.

A citizen or historic preservation organization within the City, or a permit applicant, jointly and severally aggrieved by a decision of the Historic District Commission shall have the right of appeal from the decision as provided for in Section 11 of the Act, being MCL 399.211.

(Code 1964, § 28A-1-12; Code 1984, § 25-2-58; Ord. No. 32-99, § 1(25-2-58), eff. 11-5-1999; Ord. No. 15-04, § 1(25-2-58), eff. 5-7-2004)

Secs. 21-2-82—21-2-100. - Reserved.