

Chapter 40 HISTORICAL PRESERVATION

ARTICLE I. IN GENERAL

Secs. 40-1—40-20. Reserved.

ARTICLE II. HISTORIC DISTRICTS

Sec. 40-21. Statement of purpose.

The purpose of this article is to:

- (1) Safeguard the heritage of the city by preserving the cultural, social, economic, political and architectural elements having historic significance;
- (2) Stabilize and improve property values in such districts;
- (3) Foster and promote property values in such districts;
- (4) Promote the use of local history for education, pleasure and the welfare of the citizens of the city;
- (5) Encourage the collection of records and objects which interpret the history of this city and cooperate in the establishment and operation of a museum or other appropriate center for custody and display of such items.

(Ord. No. 99-339, pt. I, 6-7-99)

Sec. 40-22. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alteration means any excavation, new construction, reconstruction or exterior modification, removal or addition of any exterior feature, including change of an unexposed surface material.

Commission means the historic district commission.

Demolition means the raising or destruction, whether entirely or in part, of a resource and includes, but is not limited to demolition by neglect.

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.

Historic district means any area or areas created under this article for the purpose of this article as a historic district. Such areas not necessarily having contiguous boundaries. The area included in a noncontiguous historic district shall be the structure on the property and 100 feet therefrom or the property boundary, whichever is less.

Historic preservation means the protection, conservation, rehabilitation, restoration or reconstruction of historic districts and the sites, buildings, structures and objects contained therein, through implementation of the provisions of this article.

Ordinary maintenance and repair means acts of repair and other acts to prevent a decline, deterioration, decay or damage of a structure without change of the exterior appearance. The painting and repainting of a structure to a color other than that present on June 15, 1999, shall be considered ordinary maintenance and repair.

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 chapter.

Resource means one or more publicly or privately owned historic or nonhistoric buildings, structures, sites, objects, features or open spaces located within a historic district.

(Ord. No. 99-339, pt. I, 6-7-99)

Sec. 40-23. Historic districts enumerated.

Historic districts within the city are hereby created, which districts shall include the following described land and the structures situated thereon:

Location	Tax I.D. No.
27400 Southfield Road	Tax I.D. No.: 24-13-351-038
27700 Southfield Road	Tax I.D. No.: 24-13-303-021
27800 Southfield Road	Tax I.D. No.: 24-13-301-001

(Ord. No. 99-339, pt. I, 6-7-99; Ord. No. 416-10, pt. II, 12-20-2010)

Sec. 40-24. Notice of district designation.

Within 30 days after any land has been designated under this chapter as a part of a historic district, the city clerk shall cause a document to be recorded with the county register of deeds describing such land and indicating that it has been included within a historic district pursuant to the provisions of this article.

(Ord. No. 99-339, pt. I, 6-7-99)

Sec. 40-25. Modification of historic districts.

- (a) *Generally.* The boundaries of the historic district may be changed from time to time to add or delete any area, site or structure. Such changes shall be made by ordinance amendment adopted by the city council upon recommendation of the historic district commission.
- (b) *Initial determination of reasonableness.* Upon receipt of the historic district commission from any person owning property in the city to add any area, site or structure or to modify or delete any area, site or structure from a historic district, the historic district commission, after making a determination that there are reasonable grounds for such a request, shall recommend to the city council that an investigation to determine whether or not such request should be granted be commenced. Included in the recommendation shall be a proposed budget to conduct such investigation.
- (c) *Investigations; report.* As part of the modification investigation, the historic district commission shall conduct studies and research and make a written report on the cultural, social, economic, political, architectural or historical significance of the area, site or structure under consideration. The report shall contain a specific recommendation as to action to be taken on the request for modification.

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- (d) *Transmittal of report; public hearing; final recommendations.* Copies of the report shall be transmitted for review and recommendation to the city council, the state historical commission and the state historical advisory council. Sixty days after the transmittal, the historic district commission shall hold a joint public hearing with the city council thereon after notice, which shall include a written notice to the owners of all properties to be included in such district. The commission shall submit a final report with its recommendations to the city council. Included in such report shall be the recommendation to draft the appropriate ordinance.
 - (e) *Publication of public hearing notice.* The notice required by subsection (d) above shall be given by publication at least once in a newspaper having general circulation within the city at least 15 days prior to the date of the hearing, and by regular mail addressed to each owner at such addresses as appear on the city assessment rolls, at least seven days prior to the date of hearing.
 - (f) *Initiation by commission.* The commission may initiate the modification procedures set out above only after the recommendation to the city council to do so has been approved by the city council.

(Ord. No. 99-339, pt. I, 6-7-99)

Sec. 40-26. Historic district commission creation; members; vacancies; compensation.

- (a) *Creation.* There is hereby created the city historic district commission, which shall consist of seven members who reside in the city. Members shall be appointed by the mayor and approved by the council, for terms of office [of] three years; provided, that two of the initial members shall be appointed for one year, two members for two years and three members for three years. Terms shall expire on December 31 of the year of expiration. The first appointment shall be for terms of less than one, two or three years, in order to expire on December 31. Members of the historic district commission shall be eligible for reappointment.
- (b) *Vacancy.* A vacancy occurring in the membership of the historic district commission for any cause shall be filled by a person appointed by the mayor and approved by the council for the duration of the unexpired term.
- (c) *Special membership requirements.* At least two members of the historic district commission shall be appointed from a list of residents submitted by a duly organized and existing preservation society or societies located in the city, and at least one member of the historic district commission shall be an architect duly registered in the state if such person resides in the city and is available for appointment.
- (d) *Compensation.* Members of the historic district commission shall serve with such compensation as may be provided by the resolution of the council.

(Ord. No. 99-339, pt. I, 6-7-99)

Sec. 40-27. Same—general rules of procedure.

- (a) *Officers.* The historic district commission shall elect from its membership a chairperson, vice-chairperson and secretary, whose terms of office shall be fixed by the commission.
- (b) *Chairperson.* The chairperson shall preside over the historic district commission and shall have the right to vote.
- (c) *Vice-chairperson.* The vice-chairperson shall, in the case of absence or disability of the chairperson, perform the duties of the chairperson.

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- (d) *Secretary.* The secretary shall keep a record of all resolutions, proceedings and actions of the historic district commission and report regularly to the council, with copies to the planning commission. The secretary shall act as custodian of the maps and archives of the historic district commission.
 - (e) *Quorum.* At least four members of the historic district commission shall constitute a quorum for the transaction of business.
 - (f) *Affirmative votes.* The affirmative vote of four members of the historic district commission shall be required for the approval or disapproval of plans before it for review, or for the adoption of any resolution, motion or other action by the commission.
 - (g) *Public record.* The historic district commission shall keep a record, which shall be open to the public view, of its resolutions, proceedings and actions.
 - (h) *Annual report.* The historic district commission shall submit an annual report of its activities to the council, and shall submit such special reports as requested by the council.
 - (i) *Adoption of rules.* The historic district commission shall adopt rules for the transaction of its meetings, of its business which shall provide for the time and place of its regular meetings.
 - (j) *Open meetings.* All meetings of the historic district commission shall be open to the public, and any person or his duly constituted representative shall be entitled to appear and be heard on any matter applicable to the business at hand before the commission makes a decision.
 - (k) *Special meetings.* The historic district commission shall provide for the calling of special meetings by the chairperson or by at least two members of the commission. All members of the commission shall receive written notification in advance of such special meeting.
 - (l) *Notice of meetings.* Notices of all meetings, including agenda of matters to be considered, shall be transmitted to the council and any existing historical societies in the city on record in the city clerk's office.

(Ord. No. 99-339, pt I, 6-7-99)

Sec. 40-28. Duties, powers and restraints.

Except as otherwise provided, the historic district commission shall have the duties of administering and implementing the provisions of this article. The responsibility shall include the following duties and powers:

- (a) The commission shall have the duty to investigate and report on requests for modification of historic districts as provided in this article.
- (b) The commission shall have the duty to review and approve applications, including proposals and plans, for construction, alteration, repair or demolition in historic districts as more fully set forth in section 40-29.
- (c) The commission shall have the authority to request periodic inspections of all designated historic districts by the city administrator or his or her representative for violations of this article.
- (d) The commission shall have the duty to maintain a current listing of historic districts and a brief statement of the significance of each.
- (e) The commission shall have the authority to initiate modification procedures set out in this article on its own motion.
- (f) The commission shall have the authority to call on experts to aid in its deliberations within the limits of its budget, or upon the approval of the council.

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- (g) In cases where there is imminent danger of the loss or irreparable alteration of a site or structure protected by this article, the commission shall have the authority to request the city to seek such injunctive relief as it deems necessary to preserve the site or structure.
 - (h) The commission shall have such other powers as are reasonable and necessary for the efficient administration and implementation of this article.

(Ord. No. 99-339, pt. I, 6-7-99)

Sec. 40-29. Work affecting exterior appearance of structures; permission required; review procedure.

- (a) *Requests for permission.* Before construction, alteration, repair, moving or demolition affecting the exterior appearance of a structure or the construction of a new structure or part thereof within the historic district, the person proposing to take such action shall apply for and obtain permission to do so from the historic district commission.
- (b) *Application.* The application shall be on a form as prescribed by the city clerk. No fee shall be charged for the review and decision by the commission of any application. The application shall consist of two parts.
 - (1) A written proposal of the action for which commission approval is sought with an explanation of the reason for the requested action; and
 - (2) Plans and drawings sufficient to clearly illustrate the proposed actions and depicting the structure in question and its relation to adjacent structures.

The application shall be submitted to the city clerk before obtaining a building permit.

- (c) *Transmittal of application to commission; building division certification.* The application shall be transmitted to the building department and to the historic district commission immediately after filing with city clerk. No construction, alteration, repair, moving or demolition shall take place, nor a permit issued therefor, until the building department has certified to the commission that the plans and drawings meet the requirements of all applicable ordinances and regulations and the commission has acted on the application, as hereinafter provided.
- (d) *Criteria for determination.* The historic district commission shall review such applications giving specific consideration to the proposed action and proposed plans in light of the following criteria so that the decision will be consistent with the objectives set forth in this article:
 - (1) The historical or architectural value and significance of the structure and its relationship to the historical value of the surrounding area;
 - (2) The relationship of the exterior architectural features of the structure to the rest of the structure and of the surrounding areas;
 - (3) The general compatibility of the exterior design, arrangement, texture and materials proposed to be used;
 - (4) Those features of the particular structure identified in the report of the ad hoc historic districts study committee of the historic district commission which supported its recommendation of the site or structure for inclusion within a historic district.
- (e) *Guidelines for construction, restoration, etc.* Any and all construction, restoration, alteration, modification, maintenance, repair or rehabilitation of the exterior of any house and/or structure or a part thereof in a historic district shall be done in accordance with the following guidelines:

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- (1) Every reasonable effort shall be made to provide a compatible use of a property which requires minimal alteration of the structure or site.
 - (2) The distinguishing original qualities or character of a structure or site shall not be destroyed. The removal or alteration of any historic material or distinctive features shall be avoided.
 - (3) All buildings shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged.
 - (4) Changes which may have taken place in the course of time are evidence of the history and development of a building and its environment. These changes may have acquired significance in their own right, and this significance should be recognized and respected.
 - (5) Distinctive stylistic features or examples of skilled craftsmanship which characterize a building shall be treated with sensitivity.
 - (6) Deteriorated architectural features shall be repaired rather than replaced whenever possible. If replacement is needed, the new material should match the material being replaced in color, composition, texture, design and other visual qualities. Repair or replacement of missing features should be based on accurate duplications of features or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other sources.
 - (7) The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that damage the building materials shall not be undertaken.
 - (8) Contemporary design for alteration and additions to existing properties will not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural material and such design is compatible with the size, scale, color, material and character of the property or neighborhood.
 - (9) Whenever possible, new additions or alterations to structures shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.
 - (10) The Secretary of the Interior's "Standards for Rehabilitation" as presently promulgated in the Code of Federal Regulations or as they may be amended in the future. Copies of said "Standards for Rehabilitation" shall be maintained in the office of the city clerk and shall be subject to an examination by the public during normal business hours.
- (f) *Decision of commission.* Upon its review, the commission shall first approve the proposal and secondly approve the plans if, in its judgment, the criteria enumerated above are not adversely affected by the request. The commission may approve the proposal but reject the specific plans, if it is determined that the plans are detrimental to the values embodied in the criteria. In that event, the applicant may submit revised, amended or new plans for the commission's review and approval. Denial of any applications shall be based only on the considerations set forth in subsections (d) and (e).
- (g) *Review and limited exterior features.* The commission shall pass only on the exterior features of a structure and shall not consider interior arrangement or use of the structure.
- (h) *Grounds for approving application.* In addition to approval of an application pursuant to subsection (e) above, an application for repair or alteration affecting the exterior appearance of a structure within a historic district or for its moving or demolition shall be approved by the commission if any of the following conditions prevail, and if, in the opinion of the commission, the proposed changes will materially improve or correct these conditions:
- (1) The structure constitutes a hazard to the safety of the public or occupants.

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- (2) The structure is a deterrent to a major improvement program which will be of substantial benefit to the community.
 - (3) Retention of the structure would cause undue financial hardship to the owner.
 - (4) Retention of the structure would not be in the interest of the majority of the community.
- (i) *Filing certificate of approval or rejection.* After due consideration, the commission shall file with the building department its certificate of approval or rejection of the application submitted to it for review. Such certificate shall be signed by the chairperson or secretary of the commission. The commission, in issuing its certificate, shall state the reasons and grounds for its action in its minutes and on the date of its certificate.
 - (j) *Compliance with approved plan.* After a certificate of approval has been issued and the building or demolition permit granted to the applicant, the building department shall take such action as is necessary to require compliance with the approved building plan.
 - (k) *Certificate of rejection; no permits issued; resubmittal after modification of plan.* A certificate of rejection shall be binding upon the building department and no permit shall be issued in such case. In the case of rejection, either before or after a rejection, the commission shall endeavor to work out a feasible plan for preservation with the applicant and may give suggestions regarding changes in the application it deems desirable to the applicant. The applicant may take modifications to his or her plans and shall have the right to resubmit his or her application at any time after doing so.
 - (l) *Failure of commission to act.* The failure of the commission to act within a maximum of 60 days after the date of application filed with it, unless an extension is agreed upon mutually by the applicant and the commission, shall be deemed to constitute approval.
 - (m) *Plan for preservation of structures.* In case an application for repair or alteration affecting the exterior appearance of a structure or for moving or demolition of a structure which the commission deems so valuable to the city, state or nation that the loss thereof will adversely affect the public purpose of the city, state or nation, the commission shall endeavor to work out with the owner an economically feasible plan for the preservation of the structure.
 - (n) *Demolition or moving of structures.* It shall be the public policy of this city to discourage the demolition, demolition by neglect or moving of structures within a historic district which are of historic or architectural value.
 - (o) *Hazardous structures.* If any structure within a historic district has deteriorated to the extent that the building department believes the structure should be demolished under chapter 14, sections 14-251 through 14-259, proceedings under such article may be commenced. Not less than fifteen days' notice of the hearing to be held by the council on the determination that the building is unsafe, shall be given to the historic district commission by the building department. The commission shall be deemed to be an interested party for the purposes of the hearing before the council and may make recommendations to the council concerning the architectural and historical value of the structure to be considered.

(Ord. No. 99-339, pt. I, 6-7-99)

Sec. 40-30. Gifts, funding.

- (a) *State law and federal grants.* The historic district commission shall have the power to accept and administer gifts, grants or bequests for historic restoration purposes from the state or federal government.
- (b) *Public and private gifts.* The historic district commission shall have the power to accept and administer public and private gifts, grants or bequests for historical purposes.

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- (c) *Administration of funds.* The city treasurer shall hold to the funds as trustee of the historic district commission for all gifts, grants and bequests. Authorized expenditures shall be certified to the treasurer by the secretary or other officer designated by the commission. The commission shall annually report to the council any money it receives or expends. As to all funds to be made available by the council, the historic district commission shall annually submit a budget as a commission of the city.
 - (d) *Titles to real property.* Notwithstanding anything herein to the contrary, the title to all real property accepted and administered by the historic district commission shall be received and held in the name of the city.

(Ord. No. 99-339, pt. I, 6-7-99)

Sec. 40-31. Acquisition of historic property.

If all efforts by the historic district commission to preserve a historic structure fail, or if it is determined by the commission that public ownership is most suitable, the council may acquire such property, if deemed to be in the public interest, using public funds, gifts for historical purposes, grants from the state or federal government for acquisition of historic properties, or proceeds from revenue bonds issued for historical purposes. Such acquisition shall be based on the written recommendation of the historic district commission. The commission shall maintain publicly owned historic structures using its own funds, if not specifically earmarked for other purposes, or those public funds committed for this use by the council.

(Ord. No. 99-339, pt. I, 6-7-99)

Sec. 40-32. Ordinary maintenance and repair.

- (a) Nothing in this article shall be construed to prevent ordinary maintenance and repair of any structure within this historic district; nor to prevent construction, alteration, repair, moving or demolition of any structure under permit issued by the building department prior to June 15, 1999.
- (b) A structure in any historic district shall be maintained by the owner or person in control thereof so as to prevent deterioration of exterior walls of vertical support, roofs or horizontal members, exterior chimneys, exterior plaster mortar, any documented exterior architectural feature, and to prevent deterioration by the weather due to the inadequate weatherproofing of exterior walls, roofs and foundations, including the necessity of replacing broken windows and doors.

(Ord. No. 99-339, pt. I, 6-7-99)

Sec. 40-33. Duty to maintain and repair.

- (a) *Prevention of deterioration.* Every resource in any historic district shall be maintained by the owner or person in control thereof, so as to:
 - (1) Prevent deterioration of exterior walls or vertical supports, roofs, or horizontal members, exterior chimneys, exterior plaster or mortar, any documented exterior architectural feature; and
 - (2) Prevent deterioration by the weather due to inadequate weatherproofing of exterior walls, roofs, and foundations, including the necessity of replacing broken windows and doors, if the deterioration has or is likely to cause structural weakness or to otherwise affect the continuation of the resource as a historic resource.
- (b) *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:

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- (1) *Require repair.* Require the owner of the resource to repair all conditions contributing to demolition by neglect; or
 - (2) *Repair by city.* If the owner does not make repairs within a reasonable time, the city 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 city as a special assessment against the property. The city or its agents may enter the property for purposes of this sub-paragraph only after obtaining an order from the circuit court.

(Ord. No. 99-339, pt. I, 6-7-99)

Sec. 40-34. Work done without a permit.

- (a) *Restoration by owner.* 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 the owner to restore the resource to the condition the resource was in before the inappropriate work or to modify the work so that it qualifies for a certificate of appropriateness.
- (b) *Court order.* If the owner does not comply with the restoration requirements within a reasonable time, the city 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.
- (c) *Restoration by city.* If the owner does not comply or cannot comply with the order of the court, the city or its agents may enter the property and conduct work necessary to restore the resource to its former condition or to modify the work so that it qualifies for a certificate of appropriateness in accordance with the courts order. The costs of the work shall be charged to the owner, and may be levied by the city as a special assessment against the property.
- (d) *Entry onto the property.* When acting pursuant to an order of the circuit court, the city or its agents may enter a property for purposes of this sub-section.

(Ord. No. 99-339, pt. I, 6-7-99)

Sec. 40-35. Appeal from commission decisions.

- (a) *Administrative appeal to city council.* An applicant aggrieved by a decision of the commission concerning a permit application shall have the right to appeal the decision to the city council provided the appeal is requested in writing and presented to the city clerk within 21 days after the meeting in which the final decision of the commission was rendered. The city council shall consider the appeal within 30 days of its filing.
- (b) *Administrative appeal to Michigan Historical Commission.* An applicant aggrieved by a decision of the commission and the city council concerning a permit application may file an appeal in accordance with section 5(2) of 1970 PA 169, as amended, with the State Historical Preservation Review Board of the Michigan Historical Commission. The appeal shall be filed within 60 days after the city council's decision is furnished to the applicant.
- (c) *Judicial review.* 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, in accordance with section 11 of the 1970 PA, 169, as amended, appeal the decision to the circuit court, except that a permit applicant aggrieved by a decision rendered herein may not appeal to the court without first exhausting the right to appeal to the city council and then to appeal to the state historic preservation review board.

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(Ord. No. 99-339, pt. I, 6-7-99)

Sec. 40-36. Violations.

- (a) *Civil fine.* Any person who violates this chapter is responsible for a civil infraction and may be fined not more than \$5,000.00.
- (b) *Restoration.* Any person who violates this chapter may be ordered by the court to pay the cost to restore or replicate a resource unlawfully constructed, added to, altered, repaired, moved, excavated, or demolished.

(Ord. No. 99-339, pt. I, 6-7-99)

Sec. 40-37. Determination of property values.

The assessor for the city, to the extent permitted by state law, shall not consider the designation of a historic district in determining the true cash value of property for assessments purposes.

(Ord. No. 99-339, pt. I, 6-7-99)