

Chapter 73. - Heritage Preservation Commission

Sec. 73.01. - Declaration of public policy and purpose.

The council of the City of Saint Paul hereby declares as a matter of public policy that the preservation, protection, perpetuation and use of areas, places, buildings, structures and other objects having a special historical, community or aesthetic interest or value is a public necessity and is required in the interest of the health, prosperity, safety and welfare of the people. The purposes of this chapter are to:

- (1) Safeguard the heritage of the City of Saint Paul by preserving sites and structures which reflect elements of the city's cultural, social, economic, political or architectural history;
- (2) Protect and enhance the City of Saint Paul's attraction to residents, tourists and visitors, and serve as a support and stimulus to business and industry;
- (3) Enhance the visual and aesthetic character, diversity and interest of the City of Saint Paul;
- (4) Foster civic pride in the beauty and notable accomplishments of the past; and
- (5) Promote the use and preservation of historic sites and structures for the education and general welfare of the people of the City of Saint Paul.

Sec. 73.02. - Definitions.

- (1) Heritage preservation site shall include any areas, places, buildings, structures, lands, districts, or other objects which have been duly designated heritage preservation sites pursuant to subsection 73.04(3).
- (2) Historic use variance shall mean a departure from the uses permitted in chapter 66 of the zoning code governing a designated heritage preservation site where strict adherence would prevent reasonable re-use of the structure in a manner consistent with either the structure's historic use or a new use that requires minimal change to the defining characteristics of the building and its site and environment.
- (3) Secretary of the Interior's Standards for Rehabilitation shall mean the most recent standards for the treatment of historic properties established by the National Park Service, United States Department of the Interior and codified in 36 CFR 67.7.

Sec. 73.03. - Heritage Preservation Commission established.

(a) **Members.** There is hereby created and established a Saint Paul Heritage Preservation Commission, hereinafter the "commission," which shall consist of thirteen (13) voting members who shall be residents of Saint Paul appointed by the mayor, with the advice and consent of the city council. One (1) of the members shall be a representative of the Ramsey County Historical Society, if available, and at least three (3) of the members shall be professional registered architects.

(b) **Term.** All appointments shall be for a term of three (3) years. In the event of a vacancy, the vacancy for the unexpired term shall be filled in the same manner as the appointment is made. Members shall serve without compensation and shall continue to hold office until their successors have been appointed and qualified.

(c) **Appointments.** When an appointment or reappointment is required to fill a vacancy in the membership of the commission, the mayor shall take into consideration the written summary of needed commission expertise prepared pursuant to section 73.04(11) of this chapter, and may solicit applications for appointment from persons or organizations on the list prepared pursuant to section 73.04(12) of this chapter. The term vacancy includes the expiration of a term notwithstanding that the incumbent member continues to serve until his or her successor is appointed and qualified. Nothing herein shall, except as otherwise provided by law or ordinance, limit the power of the mayor to make appointments or reappointments to the commission, nor the discretion of the council to advise and consent, or not to advise and consent, to such mayoral appointments or reappointments.

(d) Organization. The commission when formed shall elect from its members such officers as it may deem necessary. The commission shall have the power to designate and appoint from its members various committees with powers and duties equivalent to and not inconsistent with the powers and duties of the commission. The commission shall make such rules and regulations as it may deem advisable and necessary for the conduct of its affairs, for the purpose of carrying out the intent of this chapter, which are not inconsistent with the laws of the city and the state. Such rules may provide for the delegation of commission duties, responsibilities and powers to a subcommittee of the commission, or to the head of the division of planning of the department of planning and economic development or such employees as that person may designate in accordance with and subject to law. Such rules and amendments thereto are not effective until filed with the city clerk. The commission shall use the services of the staff of the division of planning as required for the conduct of commission business and performance of the duties prescribed under this chapter. The commission shall make an annual report, containing a statement of its activities, to the mayor, city council and city planning commission.

Sec. 73.03.1. - Review of historic use variance applications.

(a) Application. Any person having an ownership, leasehold, or contingent interest in the heritage preservation site is eligible to file an application with the commission to permit use of the site in a manner consistent with its historic use or a new use consistent with section 73.04(5) of this chapter, in any zoning district where such proposed use is not permitted under the current zoning classification. The application shall be filed using the format established by the commission and shall include payment of the required fee. The application shall include a description of the proposed use, and its consistency with the structure's historic use or that the new use is consistent with section 73.04(5) of this chapter. The application shall describe all necessary exterior modifications to the structure, property, and site and include an assessment of the impact of these modifications on the historic integrity of the site, and further shall describe all interior architectural features unique to the historic period. The application shall also include a site plan, photos of existing conditions and architectural plans drawn to scale showing any proposed modifications.

(b) Fees. A fee to defray the costs incurred to review a use variance application shall be paid by the applicant at the time the use variance application is filed. The application fee shall be paid to the department of planning and economic development in the amount specified under Leg. Code § 61.302(b)(14)g.

(c) Staff review. Commission staff shall review the completed application and prepare a report and recommendation for the commission. The report shall include the following findings:

(1) The proposed use is reasonable and compatible with the historic use(s) of the site or that the new use is consistent with section 73.04(5) of this chapter.

(2) The proposed use complies with the adopted preservation program, and the United States' Secretary of the Interior's Standards for Rehabilitation, as applicable.

(3) The historic use variance is necessary to alleviate practical difficulties unique to the heritage preservation site that prevents its use in a manner consistent with its historic use or that the new use is consistent with section 73.04(5) of this chapter, and that these difficulties were not created by the applicant.

(4) The proposed use is compatible with existing uses in the surrounding area and the underlying zoning classifications in the area.

(5) The proposed use is consistent with the comprehensive plan.

(d) Commission review. The commission may conduct a public hearing on the application. After considering the report and recommendation of staff and the testimony from any public hearing, the commission shall make a recommendation to approve, approve with conditions, or deny the application and shall forward the application, the report of staff, the commission's recommendation and all other materials relative to the application to the planning commission.

(e) Planning commission review. Upon receipt of the heritage preservation commission's report and recommendation, the planning commission shall hold a public hearing in compliance with the procedures under section 61.303 of this Code for the purpose of making findings regarding the application's consistency with the comprehensive plan and the application's compatibility with the underlying zoning classifications in the surrounding area. The commission shall also review any other variances of zoning code provisions that accompany the use variance application. The planning commission shall then forward the documentation and recommendation of the heritage preservation commission together with its own findings and recommendation to the city council.

(f) City council public hearing and decision. The city council shall review all materials relative to the case and shall decide by resolution whether to approve, approve with conditions, or deny the application. The council shall hold a public hearing after notice of the public hearing shall have been published in a newspaper of general circulation and sent to the variance applicant at least ten (10) days prior to the date of the hearing. The council may consider any historic use or the new use provided it is consistent with section 73.04(5) of this chapter. If the council decision is other than the recommendation of the staff or the commissions, the council shall provide revised findings to support its decision.

(g) Period of decision. The decision of the city council shall be valid for a period not longer than two (2) years following the date of the council's motion of intent approving the application unless a city permit(s) is obtained within that time and/or steady progress is being made to establish the use. A use variance granted under this section shall terminate and any subsequent use of the property or premises shall be in conformance with the property's underlying zoning classification where the use permitted by the variance is destroyed by fire or other peril to the extent greater than fifty (50) percent of its estimated market value as indicated in the records of the county assessor at the time of the damage.

Sec. 73.04. - Powers and duties of the commission.

The commission shall have the following powers and duties in addition to those otherwise specified in this chapter:

(1) Advisory body. The commission shall serve as an advisory body to the mayor and city council on municipal heritage preservation matters. It shall review and comment on plans and studies which relate to the historic and architectural heritage of the city submitted by the office of the mayor through the division of planning and shall recommend to the mayor initiation of such studies and preparation of such reports as it deems necessary to perform its duties and carry out the intent of this chapter. All such studies and reports transmitted to the mayor and city council shall contain the recommendations of both the division of planning and the heritage preservation commission. The division of planning shall inform the commission of city planning and development activities which relate to or have potential impact on the historic and architectural heritage of the city.

(2) Survey. The commission shall conduct a continuing survey of all areas, places, buildings, structures or similar objects in the city which the commission, on the basis of information available or presented to it, has reason to believe are or will be eligible for designation as heritage preservation sites.

(3) Designation of sites. The commission shall recommend to the mayor and city council areas, buildings, objects or districts to be designated as heritage preservation sites in the city, except for the Capitol Area, as defined in Minnesota Statutes, Section 15.50, Subdivision 2, along with programs for the preservation of such sites.

(4) Review of permits. The commission shall protect the architectural character of heritage preservation sites through review and approval or denial of applications for city permits for exterior work within designated heritage preservation sites.

- (5) Review of historic use variance applications. In order to encourage the preservation and rehabilitation of designated heritage preservation sites, the commission shall review use variance applications and may recommend uses consistent with the any historic use or a new use that requires minimal change to the defining characteristics of the building and its site and environment in any zoning district where such uses are not permitted under current zoning.
- (6) Eminent domain. The heritage preservation commission may recommend to the city council, after review and comment by the city planning commission that certain property eligible for designation as a heritage preservation site be acquired by gift, by negotiation or by eminent domain as provided for in Minn. Stats. ch. 117.
- (7) Education. The commission shall work for the continuing education of the citizens of the city with respect to the historic and architectural heritage of the city. It shall keep current and public a register of designated heritage preservation sites and areas.
- (8) Technical experts. The commission may accept the services on a permanent or part-time basis of technical experts and such other persons as may be required to perform its duties.
- (9) Solicitation of gifts. The commission shall have authority to solicit gifts and contributions to be made to the city and to assist in the preparation of applications for grant funds to be made to the city for the purposes of heritage preservation.
- (10) National Register nominations. The commission shall make no application to the National Register or to the state for the designation of a historic site or district without the consent of the city council.
- (11) Street name changes. The commission shall review and comment on any proposed name change for a city street which has had its current name for fifty (50) years or more prior to action on the name change by the city council. In their review of and recommendations on such street name changes, the commission shall utilize guidelines and criteria as adopted by the commission on April 14, 1988.
- (12) Written summary of commission expertise. The commission shall prepare and maintain a summary of the skills, knowledge, competencies and technical expertise in heritage preservation and related areas which are needed by the commission to carry out its duties and functions under this chapter, but which its membership does not have or in which the commission should have more depth. Such summary shall be in writing, and shall be updated when there are vacancies in the membership of the commission, and before the regular expiration of the terms of any members of the commission. Such summary and each update thereof shall be filed with the office of the city clerk, and shall be delivered to the mayor and council when prepared. City staff assigned to assist the commission shall assist in the preparation of such summary. Failure to prepare or update such summary shall not in any respect limit or affect the ability of the mayor to appoint or reappoint or the council to advise and consent to appointments or reappointments to the commission.
- (13) List of organizations. The city staff assigned to assist the commission shall prepare and maintain a list of city organizations, professional associations, businesses and individual persons who are known to the commission or to the staff to have (i) a demonstrated interest in historic preservation, or (ii) skills, knowledge, competencies or technical expertise in heritage preservation or related areas. Such list shall be filed with the office of the city clerk, and shall be delivered to the mayor and council when prepared or updated. Forty-five (45) days before anticipated or actual vacancies occur on the commission and before the regular expiration of the terms of members of the commission, city staff shall notify this list of such vacancies with the goal of generating a pool of qualified applicants for appointment to the commission. Failure to include anyone on the list or to send them notice shall not in any respect limit or affect the ability of the mayor to appoint or the council to advise and consent to appointments or reappointments to the commission.

Sec. 73.05. - Designation of heritage preservation sites.

(a) Criteria. In considering the designation of any area, place, building, structure or similar object in the City of Saint Paul as a heritage preservation site; the commission shall apply the following criteria with respect to such designation:

- (1) Its character, interest or value as part of the development, heritage or cultural characteristics of the City of Saint Paul, State of Minnesota, or the United States.
- (2) Its location as a site of a significant historic event.
- (3) Its identification with a person or persons who significantly contributed to the culture and development of the City of Saint Paul.
- (4) Its embodiment of distinguishing characteristics of an architectural or engineering type or specimen.
- (5) Its identification as the work of an architect, engineer, or master builder whose individual work has influenced the development of the City of Saint Paul.
- (6) Its embodiment of elements of architectural or engineering design, detail, materials or craftsmanship which represent a significant architectural or engineering innovation.
- (7) Its unique location or singular physical characteristic representing an established and familiar visual feature of a neighborhood, community or the City of Saint Paul.

(b) Planning commission review. The heritage preservation commission shall advise the city planning commission of the proposed designation of a heritage preservation site, including boundaries, and a program for the preservation of a heritage preservation site, and secure from the city planning commission its recommendation with respect to the relationship of the proposed heritage preservation designation to the comprehensive plan of the City of Saint Paul, its opinion as to the effect of the proposed designation upon the surrounding neighborhood, and its opinion and recommendation as to any other planning consideration which may be relevant to the proposed designation, together with its recommendation of approval, rejection or modification of the proposed designation. Said recommendation shall become part of the official record concerning the proposed designation and shall be submitted by the heritage preservation commission along with its recommendation concerning the proposed designation to the city council. The heritage preservation commission may make such modifications, changes and alterations concerning the proposed designations as it deems necessary in consideration of the recommendations of the city planning commission.

(c) Communication with state historical society. A copy of the heritage preservation commission's proposed designation of a heritage preservation site, including boundaries, and a program for the preservation of a heritage preservation site, shall be sent to the state historical society in accordance with Minnesota Statutes, Section 471.193, Subdivision 6.

(d) Hearings. Prior to the heritage preservation commission recommending to the city council any building, district or object for designation as a heritage preservation site the commission shall hold a public hearing and seek the recommendation of all concerned citizens. Prior to such hearing the heritage preservation commission shall cause to be published in a newspaper of general circulation notice of said hearing at least twenty (20) days prior to the date of the hearing, and notice of the hearing shall be sent to all owners of property proposed to be designated a heritage preservation site and to all owners of property within one hundred (100) feet of the boundary of the area to be designated a heritage preservation site.

(e) Finding and recommendations. The heritage preservation commission shall determine if the proposed heritage preservation site is eligible for designation as determined by the criteria specified in paragraph (a) of this section, and if the heritage preservation commission recommends to the city council that the site be designated as a heritage preservation site, the commission shall transmit to the city council with its recommendation its proposed program for the preservation of the site.

(f) Council designation, hearings. The city council, upon the request of the heritage preservation commission, may by ordinance designate a heritage preservation site. Prior to such designation, the city council or one of its committees shall hold a public hearing, notice of which shall have been published in a newspaper of general circulation at least twenty (20) days prior to the date of the hearing, and notice of the hearing shall be sent to all owners of property which is proposed to be designated a heritage preservation site and to all owners of property within one hundred (100) feet of the boundary of the area to be designated a heritage preservation site.

(g) Heritage preservation program, amendment. The heritage preservation commission may recommend to the city council that the adopted heritage preservation program for any heritage preservation site be amended and shall send a copy of the proposed amendment to the state historical society. Upon receipt of any such proposed amendments, the council may consider the matter at a public hearing held for that purpose, with published notice of the public hearing in a newspaper at least twenty (20) days prior to the hearing. If adopted by the council, a copy of the amended program shall be maintained on file in the office of the city clerk for public inspection.

Sec. 73.06. - Review of permits.

(a) Type of building activity. The heritage preservation commission shall review and approve or disapprove the issuance of city permits to do any of the following in a heritage preservation site in the City of Saint Paul:

(1) Remodel or repair in any manner, not including painting, that will change the exterior appearance;

(2) Construction;

(3) Move a building;

(4) Demolition; however, this does not apply to structures that are the subject of a resolution adopted by the city council requiring the demolition of the structure or that are the subject of an administrative order signed by the mayor requiring emergency demolition in accordance with Chapter 45, Legislative Code of the City of St. Paul or Minnesota Statutes, Chapter 463.

(b) City activity. The heritage preservation commission shall review and make recommendations concerning all other city activity to change the nature or appearance of a heritage preservation site, and no permit shall issue or work commence until the heritage preservation commission renders its recommendation thereon subject to the limitation specified in paragraph (f) of this section.

(c) Criteria. All decisions of the heritage preservation commission with respect to this section shall be in accordance with the approved program for the preservation of each heritage preservation site.

(d) Permit application and plans. Every application for a building permit in relation to property designated as a heritage preservation site in the City of Saint Paul shall be accompanied by detailed plans for the proposed work to be done. A copy of the application and the plans submitted therewith shall be immediately referred by the city building official to the heritage preservation commission, and permits shall not be issued until the application is approved by the heritage preservation commission, subject, however, to paragraph (f) of this section.

(e) Commission review. The heritage preservation commission, upon receipt of the application for permit and plans, shall determine if the work to be performed pursuant to the permit adversely affects the program for the preservation and architectural control of the heritage preservation site or district. If it is determined that the work to be performed pursuant to the permit application does not adversely affect the applicable program, the application shall be approved and the city building official notified in writing. The commission, or a subcommittee of the commission, or the head of the division of planning or his designee in the case of a permit application for which the commission has delegated its authority for review and approval, may approve the application subject to such conditions as may reasonably advance the purposes of this section and the applicable preservation program. If the application is not approved, the heritage preservation commission shall conduct a public hearing for the purpose of determining whether the work to be performed adversely affects the applicable program. Notice of the public hearing shall have been published in a

newspaper of general circulation and sent to the permit applicant at least ten (10) days prior to the date of the hearing. The heritage preservation commission shall review the permit application and such plans as submitted therewith and, after receiving recommendations from concerned citizens, shall render its decision thereon as a written order to the city building official. No permit shall issue in regard to any application for a permit required under this section to be submitted to the heritage preservation commission until the city building official shall receive the order from the heritage preservation commission, subject, however, to paragraph (f) of this section. The commission shall furnish the permit applicant with a copy of the commission's written order and decision, together with a copy of any recommendations for changes necessary to be made before the commission will reconsider the applicant's permit application.

Any fees for heritage preservation commission review of building permit applications and plans shall be established by resolution of the city council. Such resolution may provide for waiver or refund of such fee under specific circumstances.

(f) Limitations. If within sixty (60) days from the filing of a building permit application the commission has neither approved nor denied the building permit application, the plans and permit application shall be deemed to have been approved by the commission, and if all other requirements of the city have been met, the division shall authorize a permit for the proposed work. No permit shall issue or work commence in the event the commission disapproves the application in accordance with this section.

(g) Emergency repair. In emergency situations where immediate repair is needed to protect the safety of the structure and its inhabitants, the city building official may approve the repair without prior heritage preservation commission action. In the case of a permit issued pursuant to this paragraph, the city building official shall immediately notify the heritage preservation commission and specify the facts or conditions constituting the emergency situation.

(h) Appeal to city council. The permit applicant or any party aggrieved by the decision of the heritage preservation commission shall, within fourteen (14) days of the date of the heritage preservation commission's order and decision, have a right to appeal such order and decision to the city council. The appeal shall be deemed perfected upon receipt by the division of planning of two (2) copies of a notice of appeal and statement setting forth the grounds for the appeal. The division of planning shall transmit one copy of the notice of appeal and statement to the city council and one copy to the heritage preservation commission. The commission, in any written order denying a permit application, shall advise the applicant of the right to appeal to the city council and include this paragraph in all such orders.

Any fee established by resolution of the city council shall be paid by the appellant at the time the notice of appeal is filed. Such resolution may provide for waiver or refund of such fee under specific circumstances.

(i) Factors to be considered. Before approving any permit application required under paragraph (d) of this section to be approved by the heritage preservation commission, the commission shall make findings based on the program for the preservation and architectural control for the heritage preservation site in regard to the following:

(1) In the case of a proposed alteration or addition to an existing building, that such alteration or addition will not materially impair the architectural or historic value of the building, and shall make written findings considering the existing structures and existing exterior appearance, building height, building width, depth or other dimensions, roof style, type of building materials, ornamentation, paving and setback.

(2) In the case of the proposed demolition of a building, prior to approval of said demolition, the commission shall make written findings on the following: Architectural and historical merit of the building, the effect of the demolition on surrounding buildings, the effect of any proposed new construction on the remainder of the building (in case of partial demolition) and on surrounding buildings, and the economic value or usefulness of the building as it now exists or if altered or modified in comparison with the value or usefulness of any proposed structures designated to replace the present building or buildings.

(3) In the case of a proposed new building, that such building will not in itself, or by reason of its location on the site, materially impair the architectural or historic value of buildings on adjacent sites or in the immediate vicinity within the historic preservation site.

(j) Documentation. In cases where the commission approves a permit application for demolition, partial demolition, moving or substantial alteration of a designated site or structure within a designated district, the commission may require that said site or structure(s) be documented, at the owner's expense, according to the documentation standards of the Historic American Building Survey and the Historic American Engineering Record (HABS/HAER) for deposit with the commission and the Minnesota Historical Society prior to the demolition, move or alteration.

(k) Permit time limit. No order of the heritage preservation commission or city council approving the issuance of building permits under this section shall be valid for a period longer than one year, unless a building permit is obtained within such period and work is proceeding within the terms of such permit unless the heritage preservation commission grants an extension not to exceed one year. In granting such extension, the heritage preservation commission may decide to hold a public hearing.

Sec. 73.07. - Penalty for violation.

An owner or occupant of any area, place, building, structure or other object within a duly designated heritage preservation site who violates the provisions of this chapter shall be guilty of a misdemeanor. Any architect, builder, contractor, agent, person or corporation who assists in the commission of a violation of this chapter shall be guilty of a misdemeanor. For each day an owner or occupant of any area, place, building, structure or other object within a duly designated heritage preservation site allows any work to be performed on any area, place, building, structure or other object in violation of Section 73.06, it shall constitute a separate violation of this chapter and it shall be punishable as such. A heritage preservation site on which there exists any remodeling, repairing, construction or a building moved in violation of this chapter is hereby declared a nuisance, and the imposition of the penalties herein prescribed shall not prevent the City of Saint Paul from instituting an appropriate action or proceeding to prevent an unlawful remodeling, repair, construction, building, building moving or demolition, or to restrain, correct or abate a violation.

Sec. 73.08. - Repository of documents.

(a) City clerk. The office of the city clerk is designated as the repository for at least one copy of all studies, reports, recommendations and programs required under Sections 73.04 and 73.06.

(b) Heritage preservation commission. The heritage preservation commission is designated as the repository for the following documents, which shall be available to the public for inspection during normal business hours: at least one copy of plans required under Section 73.06(d) and at least one copy of documentation required under Section 73.06(j).

(c) Minnesota Historical Society. The Minnesota Historical Society is designated as the repository for at least one copy of the documentation required under Section 73.06(j).

Sec. 73.09. - Recording of heritage preservation sites.

The office of the city clerk shall record with the Ramsey County recorder or the Ramsey County registrar of titles the legal description of all buildings, lands or areas designated as heritage preservation sites by the Saint Paul City Council and shall transmit a copy of said legal descriptions to the city building official.
