

Chapter 73. Heritage Preservation Commission
ARTICLE I. 73.100. GENERAL PROVISIONS

Sec. 73.101. Purpose. The intent and purpose of this article is to provide underlying principles for this chapter, to explain the construction of language, to provide definitions of terms used in this chapter, and to provide for retention of documents and recording of designated properties.

Sec. ~~73.01~~ 73.102. 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, landscapes and other objects having historical, cultural, architectural, archaeological or engineering significance 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 eligible properties which reflect elements of the city's cultural, social, economic, political, architectural, archaeological or engineering history;
- (2) Protect and enhance the City of Saint Paul's attractiveness to residents, tourists and visitors, and promote preservation 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 increase awareness of Saint Paul's place in history through outreach and education;
- (5) Enhance and reinforce the City of Saint Paul's sustainability goals of the Comprehensive Plan of 2040 through preservation, rehabilitation and reuse; and
- (6) Promote the recognition, protection, rehabilitation, reuse and preservation of heritage preservation sites and districts and historic resources for the education and general welfare of the people of the City of Saint Paul.

Sec. 73.103. Construction of Language. The following rules of construction apply to the text of this chapter:

- (a) The particular shall control the general.
- (b) The word "shall" is mandatory, and the word "should" is recommended.
- (c) Words used in the present tense include the future; words used in the singular number include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- (d) The word "person" includes an individual, a corporation, a partnership, an incorporated association or any other similar entity.
- (e) Unless the context clearly indicates the contrary, where a regulation involves two (2) or more items, conditions, provisions, or events connected by the conjunction "and," "or," "either...or," the conjunction shall be interpreted as follows:
 - (1) "And" indicates that all the connected items, conditions, provisions or events shall apply.
 - (2) "Or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.
 - (3) "Either...or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.

Sec. 73-02 73.104. Definitions. For the purposes of this chapter, unless otherwise expressly stated, or unless the context clearly indicates a different meaning, the following words and phrases shall have the meanings indicated. All words and phrases not defined shall have their common meaning.

- (a) Alteration. Any construction, addition, demolition, relocation or material change affecting the exterior of a heritage preservation site, a property within a heritage preservation district, or a nominated property under interim protection. Examples may include, but are not limited to, the following:
 - (1) Destruction of any structure, in whole or in part.
 - (2) Addition to a structure or moving the location of a structure.
 - (3) Changes to or replacement of architectural details or visual characteristics such as doors, door frames and openings, windows, window frames and openings, siding, shutters, railings, walls, steps, porches, balconies, or other ornamentation.
 - (4) Changes to surface materials, color and texture, including painting an unpainted masonry surface such as brick, concrete, stone or stucco, or sandblasting or other abrasive cleaning of a masonry surface.
 - (5) Changes to or replacement of roofing materials.
 - (6) Addition or removal of signs and awnings, or changes to or replacement of existing signs and awnings.
 - (7) Changes to or replacement of landscaping or natural features that are inconsistent with the historic character of the property. This includes changes to designated designed or planned landscapes and landscaped or natural features that are considered a contributing historic element, for example, limestone retaining walls, brick streets, and boulevards.
- (b) Building official. The building code official in the department of safety and inspections charged with the administration and enforcement of the state building code for the city, or his/her designee.
- (c) Certificate of HPC Decision. A certificate issued by the commission or its designee evidencing the review and authorization of plans for alteration of a heritage preservation site, property within a heritage preservation district or a nominated property under interim protection or as otherwise required by this chapter.
- (d) City council. The city council of the City of Saint Paul.
- (e) Commission. The heritage preservation commission of the City of Saint Paul.
- (f) Contributing. A property in a district that adds to the district's historical or architectural character because it was present during the period of significance and is recognizable as having been present during the period of significance.
- (g) Designation study. A study and report prepared to document the historical, cultural, architectural, archaeological, landscape or engineering significance of a property.
- (h) Demolition: The whole destruction of any structure
- (i) Designee: Employees of the City of Saint Paul who have been designated by the HPC to conduct business on behalf of the HPC.
- (j) Eligible: Building, site or structure which possesses the necessary qualities for fulfilling the conditions to be listed as a local, state or federal historic contributing building, site or structure.
- (k) Heritage preservation. See *historic preservation*.
- (l) Heritage Preservation Commission (HPC). A public commission consisting of thirteen (13) voting members who are residents of Saint Paul and are appointed by the mayor, with the advice and consent of the city council

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- (m) Heritage preservation district. All property within a defined area that has been designated as a heritage preservation district by the city council because of the historical, cultural, architectural, archaeological or engineering significance of the area, or designated as a historic district by state law.
- (n) (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 article subsection 73.04(3) ~~V~~ section 73.500 of this chapter including, for the limited purposes of mandatory environmental review pursuant to Minn. R. 4410.4300, Subp.31, a property deemed contributing to the State Register of Historic Places or the National Register of Historic Places.
- (o) HPC Staff. Historic Preservation Commission staff. Employees of the City of Saint Paul who assist the Heritage Preservation Commission.
- (p) Historic preservation. An activity that preserves historic resources and their ability to communicate their intended meaning and significance. Historic preservation includes the identification, evaluation, designation, protection and retention of significant historic, architectural, archaeological and cultural resources in the built and natural environments.
- (q) Historic resource. A property that is believed to have historical, cultural, architectural, archaeological or engineering significance and to meet at least one of the criteria for designation as a heritage preservation site or district as provided in this chapter.
- (r) (2) Historic use variance. ~~shall mean a~~ 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.
- (s) Integrity. The authenticity of a heritage preservation site, heritage preservation district, nominated property under interim protection or historic resource evidenced by its location, design, setting, materials, workmanship or association.
- (t) Interim protection. Protection from demolition or alteration given to a nominated property or district following the commission's decision to commence a designation study.
- (u) Nominated property. A property that has been nominated for designation as a heritage preservation site or as part of a heritage preservation district pursuant to the requirements of this chapter.
- (v) Noncontributing. A property in a district that, at the time of designation, does not add to the historical or architectural qualities either because it was not present during the period of significance or because of alterations that have compromised the property's integrity so that it is no longer recognizable as having been present during the period of significance.
- (w) Partial Demolition: Removal of primary elevation components that would detract from the building or structure to exist as it had originally by elimination of features that characterize the architectural style of the building or structure.
- (x) Planning administrator. The director of the department of planning of the department of planning and economic development of the city, or such employees under his/her direction as he/she may designate.
- (y) Property. Any land, building, structure or object, surface or subsurface area, natural or landscape feature.
- (z) Preservation program. Specific design criteria recommended by the commission and adopted by ordinance by the city council for heritage preservation sites and properties within heritage preservation districts to be used in reviewing applications for certificates of approval.
- (aa) Public Facades. Any building elevation accessible from a public right-of-way.

- (b) Rehabilitation. The process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic, architectural, and cultural values.
- (cc) Structure. Anything constructed or erected with a more or less fixed location on or in the ground or in or over a body of water. A structure shall include, but not be limited to, buildings, fences, walls, signs, canopies, decks, patios, antennas, piers, bridges, docks, and any objects or things permanently attached to the structure.
- (dd) ~~(3) Secretary of the Interior's Standards for Rehabilitation shall mean the Treatment of Historic Properties.~~ †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 36CFR 67.7.

Sec. 73.08 73.105. Repository of documents. The following agencies will retain documents required by this chapter as follows:

- (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~~ 73.303 and ~~73.06~~ 73.603.
- (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)~~ 73.604(a) and at least one copy of documentation required under section ~~73.06(j)~~ 73.604(e).
- (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)~~ 73.604(e).

Sec. ~~73.09~~ 73.106. 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.

ARTICLE II. 73.200. ADMINISTRATION AND ENFORCEMENT

Sec. 73.201. Purpose. The purpose of this article is to identify the responsibilities of property owners and city officials regarding maintenance of and alterations to historic resources under interim protection and designated sites and districts, to clarify application requirements and to provide for enforcement of this chapter.

Sec. 73.202. General Provisions.

- (a) Maintenance of designated heritage preservation sites and structures in heritage preservation districts. Properties designated as heritage preservation sites located in heritage preservation districts shall be preserved against decay and deterioration and kept free from structural defects by the owner or other person(s) who have legal custody and control of the property.
- (b) City permits. No permit shall be issued for the construction, alteration, moving or demolition of any building or structure or part thereof that has been designated as a heritage preservation site, is located within a heritage preservation district, or is a nominated property under interim protection, unless the heritage preservation commission or its designee has issued a certificate of HPC Decision.
- (c) Demolition permits for national register and state register designations. No permit shall be issued for the demolition of any building or structure or part thereof, or moving of any building or structure that has been placed on a national or state historic registry or is located within a national

or state registered district unless the heritage preservation commission or its designee has issued a certificate of HPC Decision.

- (d) Conditions of approval. The heritage preservation commission, its designee or the city council may impose such reasonable conditions and limitations in granting a certificate of HPC Decision or historic use variance as are determined to be necessary to fulfill the spirit and purpose of this chapter and the preservation program for the property, to ensure compliance, and to protect the integrity of the heritage preservation district or site.
- (e) Period of decision.
- (1) Certificates of HPC Decision authorized by the heritage preservation commission, its designees or the city council shall be valid for a period of two years, provided that a city permit for the work approved by the certificate shall have been obtained within such period and work is proceeding under the terms of the certificate. The heritage preservation commission may grant an extension not to exceed one year. In granting such extension, the heritage preservation commission staff may decide to hold a public hearing or impose new fees.
- (2) Decisions of the city council approving historic use variances shall be valid for a period of no longer than two (2) years following the date of the council's motion of intent approving the application unless a city permit is obtained within that time and/or steady progress is being made to establish the use. A use variance granted under section 73.702 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 50 percent of its estimated market value as indicated in the records of the county assessor at the time of the damage.

Sec. 73.203. Administrative Bodies and Officials.

- (a) Building official. The building official shall ensure that applicants for permits for properties that are heritage preservation sites or are located within heritage preservation districts and that require certificates of HPC decision in accordance with section 73.603 are directed to the heritage preservation commission to make application for review of the plans, and shall issue no permits until such certificates are issued, subject to the following:
- (1) Time limit for review. If within sixty (60) days from the filing of a complete application to HPC staff for a certificate of HPC Decision, the commission or its designee has neither approved nor denied an application which is deemed by the HPC staff to be complete, the plans and application shall be deemed to have been approved by the commission, and if all other requirements of the city have been met, the official shall authorize a permit for the proposed work. No permit shall be issued or work commence in the event the commission disapproves the application in accordance with section 73.604 or HPC staff deem the application to be incomplete.
- (2) Emergency repair. In emergency situations where immediate repair is needed to protect the safety of the structure and its inhabitants, the building official, after consultation with HPC staff, may approve the repair without prior heritage preservation commission action. In the case of a permit issued pursuant to this paragraph, the building official shall immediately notify the heritage preservation commission and specify the facts or conditions constituting the emergency situation.
- (3) Incomplete applications. Applications that do not include all of the information as prescribed by the HPC application submittal documentation checklists or if the submitted documentation is unclear in staffs opinion or does not meet applicable approved HPC submittal documentation standards the application will be considered incomplete and deemed insufficient for review and not subject to the time limit for review as detailed in 73.204(b).
- (b) City council. The city council of Saint Paul may approve designation of heritage preservation sites and districts and preservation programs for designated sites and districts as provided in article V

of this chapter. The council shall hear appeals of applicants or any party aggrieved by the decision of the heritage preservation commission as provided in section 73.604 of this chapter. The council shall decide whether to approve, approve with conditions, or deny applications for historic use variance applications as provided in section 73.702.

- (c) Heritage preservation commission (HPC). The heritage preservation commission shall have the powers and duties as provided in section 73.303.

Sec. 73.204. Applications.

- (a) In general. Applications for activities that require review by the heritage preservation commission shall be filed with HPC staff. The following proposed activities require application to the commission:

- (1) Certificate of HPC Decision for an activity specified in sec. 73.603.
- (2) Certificate of HPC Decision for proposed demolition of a building that has been placed on a national or state registry of historic properties.
- (3) Proposed historic use variances as defined in sec. 73.702 of this chapter.
- (4) Appeal of enforcement action by the building official or the director of the department of safety and inspections regarding violations of this chapter.
- (5) Nomination of a property as a heritage preservation site or district.

- (b) Complete application required. HPC staff shall review all applications for completeness. Incomplete applications that are deemed insufficient for review will not be processed until the deficiencies are remedied. HPC staff will notify an applicant of any deficiencies within 15 business days of receipt of application.

- (c) Criteria for a complete application.

- (1) Application shall be on forms provided by HPC staff.
- (2) The proper application fee payment for each area of prescribed work.
- (3) Applications for certificates of approval shall include all information as prescribed by the application submittal documentation checklists approved by the HPC to determine whether the application is consistent with the preservation program for the affected property.
- (4) Applications for designation of a property shall include all information as prescribed by the application submittal documentation checklist for designation as approved by the HPC:
- (5) Applications for historic use variances shall include all information as prescribed by the application submittal documentation checklist as approved by the HPC
- (6) Applications for proposed demolition of a building that has been placed on a national or state registry of historic properties shall include all information as prescribed by the application submittal documentation checklist as approved by the HPC

- (d) Application deadline. HPC staff shall establish deadlines for receipt of each type of application.

Sec. 73.205. - Fees

- (a) Application fee. Pursuant to Minn. Stat. § 462.353, subd. 4, a fee to defray the costs incurred in administering official heritage preservation controls established pursuant to Minn. Stat. § 462.351-364, as set forth in the schedule below, shall be paid by the applicant when an application is filed. The fee for applications filed shall be paid to the department of planning and economic development at the time the application is submitted for review. Heritage preservation control application fee shall be amended by ordinance.

- (b) Fee schedule. Fees for the following heritage preservation applications shall be as follows:

FEES	AMOUNT
<u>Repair/Rehabilitation</u> <u>Mechanical</u> <u>Roofing and Gutters</u> <u>Fences/Retaining Walls</u> <u>Energy Efficiency Systems</u> <u>Window Installation or Replacement</u> <u>Signs/Awnings</u>	<u>\$70.00 (+\$430 if HPC Review is Required)</u>
<u>Pre-Application Review</u>	<u>\$70.00</u>
<u>HPC Review</u> <u>Moving a Structure</u> <u>Demolition (whole)</u> <u>New Infill Construction</u> <u>Additions (over 1000sq.ft.)</u> <u>Garages (over 625sq.ft.)</u> <u>Applications that require HPC Review</u> <u>Enforcement Reviews</u> <u>After-the-Fact</u> <u>State & National District Proposals</u>	<u>\$500.00</u>
<u>Additions (under 1000sq.ft.)</u> <u>Garages (under 625sq.ft.)</u>	<u>\$140.00 (+\$360 if HPC Review is Required)</u>
<u>Appeals to City Council</u>	<u>\$400.00</u>

(c) HPC Review: Applications that it is determined require review by the Heritage Preservation Commission (HPC) the applicant shall pay the difference in fees prior to scheduling for a meeting. If fee difference is not paid, application shall be considered incomplete insufficient for review.

(d) Late fee: For any application made for any work commenced after-the-fact without first obtaining all required permits and approvals or are violations of approval conditions, the fees listed above shall be doubled to offset costs associated with investigating, processing and reviewing applications for such development.

(e) Refunds: For an application withdrawn before final approval, the planning administrator may refund part of the fee based upon the proportion of the work completed at the time of withdrawal.

Sec. 73.07 73.206. Penalty for Violations Enforcement.

(a) Enforcement Violations in general.

(1) Certificate Required. No person or entity shall alter, reconstruct or rehabilitate any part of the exterior of a heritage site or structure within a heritage district, construct any improvement on a parcel that contains a structure or on a parcel within a heritage district, including a parcel which is to be rendered vacant or partially vacant by reason of partial or complete demolition of a structure within a heritage site or district, or partially or wholly demolish any heritage site or structure within a heritage district, or permit any of these activities to occur unless a certificate of HPC decision has been granted by the Heritage Preservation Commission or its designee.

- (2) 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.
 - (3) 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.
 - (4) 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~~ property in violation of this chapter, it shall constitute a separate violation of this chapter and it shall be punishable as such.
 - (5) 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.
- (b) Authority to investigate. The building official shall investigate any complaint alleging a violation of this chapter or the conditions of any approval granted pursuant to this chapter and to take such action as authorized by this chapter or other applicable regulations, citations for any violations discovered, and issue a citation or stop work order. The official shall provide written notice to the owner of the property in violation and the commission indicating the nature of the violation(s), the action necessary to remedy the violation, and a reasonable time period to affect the remedy. Where the violation involves a condition of approval granted pursuant to this chapter or work being done without a certificate of HPC Decision, the written notice shall also advise the property owner that the order may be appealed to the heritage preservation commission.
- (c) Other penalties and remedies. This chapter may also be enforced by injunction, abatement, or other appropriate remedy in any court of competent jurisdiction.

ARTICLE III. 73.300. HERITAGE PRESERVATION COMMISSION (HPC)

Sec. 73.301. Purpose. The purpose of this article is to create a commission for heritage preservation and to provide for membership, powers and duties of the commission.

Sec. ~~73.03~~ 73.302. 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 and two alternate 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. Alternate Commission members shall be past voting members of the commission.
- (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.
 - (1) The alternate members shall act and serve as members of the Commission when a regular member(s) is absent or is otherwise unable to serve.
- (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~~ paragraph (e) of this section, and may solicit applications for appointment from persons or organizations on the list

prepared pursuant to ~~section 73.04(12) of this chapter~~ paragraph (f) of this section. 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 voting members such officers as it may deem necessary. The commission shall have the power to designate and appoint from its voting 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~~ policy and procedures 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~~ policies may provide process to conduct efficient and effective meetings, for the delegation of commission duties, responsibilities and powers to a subcommittee of the commission, or to the director 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~~ policies thereto are not effective until filed with the city clerk. The commission shall use the services of the staff of the department of planning and economic development 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.
- (e) *Meetings*. The commission shall act only at regularly scheduled meetings, which shall be convened a minimum of twice a month. If the chairperson declares an emergency to exist, the commission may meet upon two (2) days' written notice. Absent the objection of any member the chairperson may cancel or postpone a regularly scheduled meeting of the commission.
- (f) *Quorum*. No official business of the commission shall be conducted unless a quorum of half plus one of the members is present. The concurring vote of the majority of present members of the commission is necessary to constitute an act the official act of the commission.

Sec. 73.04 73.303. Powers and duties of the commission. The commission shall have the following powers and duties in addition to those otherwise specified in this chapter:

- (a) ~~(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 department of planning and economic development 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 department of planning and economic development and the heritage preservation commission. The department of planning and economic development 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.
- (b) ~~(2)~~ *Survey*. The commission shall conduct continuing surveys of all areas, places, buildings, structures, landscapes 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.
- (c) ~~(3)~~ *Designation of sites*. The commission shall recommend to the mayor and city council areas, buildings, objects or districts in the city, except for the Capitol Area, as defined in Minnesota Statutes, Section 15.50, Subdivision 2, to be designated as heritage preservation sites, along with programs for the preservation of such sites provided, however, that a property deemed contributing to the State Register of Historic Places or the National Register of Historic Places shall, for the limited purposes of mandatory environmental review pursuant to Minn. R. 4410.4300, Subp.31, also be considered a heritage preservation site.

DRAFT AS OF 01/23/18

- ~~(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.~~
- (d) Certificate of HPC Decision. The commission or its designee protects the architectural and historical character of heritage preservation sites and districts through approval or denial of certificates of approval for any alteration within or upon designated heritage preservation sites, districts, or sites under interim protection including city permits for the destruction in whole or part, or the moving of a property deemed contributing to the State Register of Historic Places or the National Register of Historic Places. Certificates of HPC Decision shall be issued as the approval, conditional approval or denial document for design review applications. The commission and its designee shall protect the architectural and historical character of heritage preservation sites and districts through review of applications for design review.
- (e) ~~(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 historic use or a new use that requires minimal change to the defining characteristics of the building and its site and environment in zoning district where such uses are not permitted under current zoning.
- (f) ~~(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 Chapter 117 of Minnesota Statutes.
- (g) ~~(7) Education.~~ The commission or its designee 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.
- (h) ~~(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.
- (i) ~~(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.
- (j) ~~(10) National Register nominations.~~ Upon consent of the city council, the commission may make application to the National Register or to the state for the designation of a historic site or district. 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.
- (k) ~~(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.
- (l) National or State Register demolition review. The commission or its designee shall review all applications for demolition in whole or part of any building or structure that has been placed on the state or national register and make comment to the building official.
- (e) ~~(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. HPC 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.

- (f) ~~(13)~~ *List of organizations.* The commissions designee 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 HPC 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; HPC 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.

ARTICLE IV. 73.400. HISTORIC RESOURCES.

Sec. 73.401. Purpose. The purpose of this article is to protect undesignated historic resources by requiring commission issuance of certificates of approval for any alterations prior to a decision on designation.

Sec. 73.402. Interim protection. Once a complete application has been received proposing designation of a historic resource as a heritage preservation site or district, no activity as described in section 73.603(a) is permitted without a certificate of HPC Decision from the heritage preservation commission or its designee, except as provided in section 73.203(a).

ARTICLE V. ~~73.05~~ 73.500. DESIGNATION OF HERITAGE PRESERVATION SITES.

Sec. 73.0501. Purpose. The purpose of this article is to provide a process for the preservation, protection, perpetuation and use of areas, places, buildings, structures, landscapes and other objects having a special historical, cultural, architectural, archaeological or engineering significance.

Sec. 73.502. Nomination. Nomination of a site or area for designation as a heritage preservation site or district may be made by:

- (a) The owner of the property or other person with a legal or equitable interest in the property, or their representative.
- (b) The heritage preservation commission or one of its members.
- (c) The mayor of the city of Saint Paul.
- (d) A member of the city council of the city of Saint Paul.

Sec. 73.503. ~~(a)~~ Criteria. In considering the designation of any ~~area, place, building, structure or similar object~~ property in the City of Saint Paul as a heritage preservation site; ~~or district~~; the commission shall apply one or more of 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.~~

(a) The property has yielded, or may be likely to yield, information important in history.

~~(2) Its location as a site of a significant historic event.~~

(b) The property is associated with significant events or with an important pattern of cultural, political, economic or social history.

~~(3) Its identification with a person or persons who significantly contributed to the culture and development of the City of Saint Paul.~~

(c) The property is associated with the lives of significant persons or groups.

(d)(4) Its embodiment of distinguishing ~~The property embodies the distinctive~~ characteristics of an architectural or engineering type ~~or specimen~~, or style, or method of construction.

(e) ~~(5) The property exemplifies~~ Its identification as the work of an architect, engineer, or master builder, designer, artist, or craftsman whose individual work has influenced the development of the City of Saint Paul.

~~(f) (6) Its embodiment of elements of architectural or engineering design, detail, materials or craftsmanship which represent a significant architectural or engineering innovation.~~

~~(g) (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.~~

(h) For the purposes of this Chapter, city permit applications for the destruction in whole or part, or the moving of a property, deemed contributing to the State Register of Historic Places or the National Register of Historic Places shall, for the limited purposes of mandatory environmental review pursuant to Minn. R. 4410.4300, Subp.31, also be deemed a heritage preservation site.

Sec. 73.504. ~~(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 the 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.

Sec. 73.505. ~~(e)~~ *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 the site, shall be sent to the state historical society in accordance with Minnesota Statutes, Section 471.193, Subdivision 6.

Sec. 73.506. ~~(e)~~ *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.

Sec.73.507. ~~(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 section 73.503, 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.

Sec. 73.508. ~~(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.

Sec. 73.509. ~~(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. 73.510. Interim protection is established to protect a nominated property or district from destruction or inappropriate alteration during the designation process. Interim protection shall be in effect from the date of the Commission's decision to commence a designation study of a nominated property or district until the city council makes a decision regarding the designation, or for twelve (12) months, whichever comes first. During the interim protection period, no alteration or minor alteration of a nominated property shall be allowed except where authorized by a certificate of HPC decision, as provided in this chapter.

ARTICLE VI. 73.600. 73-06. REVIEW OF PERMITS CERTIFICATES OF HPC DECISION

Sec. 73.601. Purpose. The purpose of this article is to maintain the character and integrity of designated sites and districts by requiring heritage preservation commission review and approval of plans for alteration and demolition and to provide for review of demolition applications for properties on state and/or national registers that are not locally designated.

Sec. 73.602. In general. All decisions of the heritage preservation commission or its designee with respect to review of applications and plans for alteration of a heritage preservation site shall be in accordance with the approved program for the preservation of the heritage preservation site and the Secretary of the Interior's Standards for the Treatment of Historic Properties.

Sec. 73.603. Certificates of HPC Decision required.

(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: plans for alteration of a heritage preservation site, property within a heritage preservation district or a nominated property under interim protection, including:

- (1) Remodel or repair in any manner, not including painting, that will change the exterior appearance;
- (2) Any exterior mechanical work or permanent site work, not including plant material.
- (3) ~~(2)~~ Construction of new infill, accessory structures or additions;
- (4) ~~(3)~~ Move a building off or onto a site;
- (5) ~~(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 Saint Paul or Minnesota Statutes, Chapter 463.

(b) State or national designations. The heritage preservation commission or its designee shall review all applications for demolition, partial or whole, and moving of any building or structure that has been placed on a state or national historic register but is not locally designated.

(c) ~~(b)~~ City activity. The heritage preservation commission or its designee shall review and make recommendations concerning all other city activity to change the nature or appearance of a

heritage preservation site, and no city permit shall be issued or work commence until the heritage preservation commission or its designee renders its recommendation thereon subject to the limitation specified in 73.203(a)(1).

~~(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.~~

Sec. 73.604. Procedure.

~~(a) (d) Application and plans.~~ Every application for an alteration to property designated as a heritage preservation site in the City of Saint Paul shall be accompanied by a complete application and detailed plans according to the appropriate commission approved submittal documentation checklist 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.~~ as specified in section 73.204 of this chapter.

~~(b) (e) Commission review.~~ Except as provided below the heritage preservation commission, upon receipt of the application and plans, shall utilize the established guidelines and the Secretary of the Interior's Standards for the Treatment of Historic Properties, as applicable, to determine if the work to be performed adversely affects the program for the preservation and architectural character of the heritage preservation site or district. If it is determined that the work to be performed pursuant to the application does not adversely affect the applicable program, the application shall be approved and the city building official notified in writing. The commission, or its designee, or a subcommittee of the commission, or the director of the department of planning and economic development or designee in the case of an 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 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 city permit shall issue in regard to any application for a certificate of HPC Decision 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 to section 73.203(a) of this chapter. The commission shall furnish the applicant with a copy of the commission's written order and decision, together if the application is not approved, the commission will provide the applicant with a copy of any recommendations for changes necessary to be made before the commission will reconsider the applicant's application. However, applications for permits for the destruction, in whole or part, or the moving of a property that is deemed contributing to the State Register of Historic Places or the National Register of Historic Places which otherwise would require mandatory environmental review pursuant to Minn. R. 4410.4300, Subp. 31 shall be reviewed by the director of the division of planning or the director's designee. The director or designee, as the case may be, shall deny or approve the application and may impose conditions upon any approval which will reasonably advance the purposes of this Chapter.

~~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

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~~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.~~

- (c) No substantial change shall be made to the approved plans after a certificate of HPC Decision has been issued by the commission without resubmittal to the commission and approval of such changes in the same manner as the original application.
- (d) ~~(i)~~ *Factors to be considered.* Before approving any application required ~~under paragraph (d)~~ of this section this article 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 character of the building, under the established guidelines. The commission shall make written findings considering the existing structure 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 a~~ proposed demolition, ~~partial or whole,~~ or moving 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.
- (e) ~~(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, prior to the demolition, move or alteration 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) and the Minnesota Historical Property Recordation (MHPR) 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.~~
- (f) ~~(h)~~ *Appeal to city council.* The applicant or any party aggrieved by the decision of the heritage preservation commission shall, within fourteen (14) calendar 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 department of planning and economic development of two (2) copies of a notice of appeal and a statement setting forth the grounds for the appeal. The department of planning and economic development 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.
- (g) 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.

ARTICLE VII. ~~73.03.1.~~ 73.700. HISTORIC USE VARIANCES.

Sec. 73.701. Purpose. The purpose of this article is to establish the authority of the city council to approve historic use variances when necessary and to provide for appropriate procedures.

Sec. 73.702. Review of historic use variance applications.

- (a) ~~Application Eligibility.~~ Any person having an ownership or leasehold interest, or contingent interest in the of a locally designated heritage preservation site or property located within a locally designated heritage preservation district which is contributing or proposed work will make the structure contributing, and has completed any required HPC design review and received HPC design review approval prior to submitting an application for a historic use variance 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)~~ 73.303(e) of this chapter, in any zoning district where such proposed use is not permitted under the current zoning classification, and is compatible with existing uses in the surrounding area. The application shall comply with the requirements of section ~~73.04(5)~~ 73.204(c)5. 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, to be considered complete, 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) ~~HPC Staff Application Review.~~ HPC staff ~~The HPC designee shall review the completed application for completeness and prepare a report and with a recommendation for to the commission. The report shall include the following analysis findings:~~
- (1) ~~If~~ If the proposed use is reasonable and compatible with the historic use(s) of the site or that the new use is consistent with section 73.303(e) of this chapter.
 - (2) ~~If~~ If the proposed use complies with the adopted preservation program and the ~~United States' Secretary of the Interior's Standards for Rehabilitation~~ the Treatment of Historic Properties, as applicable.
 - (3) ~~If~~ If 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 73.303(e) of this chapter, and that these difficulties were not created by the applicant.
 - (4) ~~If~~ If the proposed use is compatible with existing uses in the surrounding area and the ~~underlying~~ zoning classifications in the area.
 - (5) ~~If~~ If 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 ~~HPC staff~~ the designee of the HPC and the testimony from ~~any~~ the 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 ~~HPC staff~~ the designee of the HPC, the commission's recommendation and all other submitted materials relative to the application to the planning commission.

- (d) *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.
- (e) *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 73.303(e) of this chapter. If the council decision is other than the recommendation of the HPC staff or the commissions, the council shall provide revised findings to support its decision.
- (f) *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 50 percent of its estimated market value as indicated in the records of the county assessor at the time of the damage.