

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE TO AMEND CHAPTER 2, TITLED "ADMINISTRATION," OF THE CODE OF ORDINANCES OF THE CITY OF DEARBORN BY AMENDING DIVISION 7, PERTAINING TO THE HISTORIC PRESERVATION COMMISSION.**

**THE CITY OF DEARBORN ORDAINS TO:**

**Amend Division 7 of the Code of the City of Dearborn by amending sections 2-476 to 2-490.3 to read as follows:**

**DIVISION 7. – HISTORIC DISTRICT ORDINANCE**

~~DIVISION 7. – HISTORIC PRESERVATION COMMISSION~~

**Sec. 2.476. -Short title.**

This Ordinance shall be known as the "Historic District Ordinance of the City of Dearborn."

~~Sec. 2-476. – Short title.~~

~~—This division shall be known as the "Historic Preservation Commission Ordinance" of the city.~~

~~(Ord. No. 98-747, 11-17-98; Ord. No. 99-791, 9-21-99)~~

**Sec. 2-477. -Purpose.**

Historic preservation is hereby declared to be a public purpose and the City Council of the City of Dearborn may hereby regulate the construction, addition, alteration, repair, moving, excavation, and demolition of resources in historic districts within the City limits. The purpose of this Ordinance is to:

1. Safeguard the heritage of the City of Dearborn by preserving districts which reflect elements of its history, architecture, archaeology, engineering, or culture.
2. Stabilize and improve property values in each district and surrounding areas.
3. Foster civic beauty.

4. Strengthen the local economy.

5. Promote the use of historic districts for the education, pleasure, and welfare of the citizens of the City of Dearborn and of the State of Michigan.

The City of Dearborn may by Ordinance establish one or more historic districts. The historic district(s) shall be administered by the Historic District Commission and pursuant to this Ordinance.

~~Sec. 2-477. - Purpose.~~

~~—The purpose of this division is to:~~

~~—(1) Safeguard the heritage of the city by preserving districts that reflect elements of its cultural, social, economic, political or architectural history, and to preserve historic landmarks.~~

~~—(2) Stabilize and improve property values in such districts.~~

~~—(3) Foster civic beauty.~~

~~—(4) Strengthen the local economy.~~

~~—(5) Promote the use of historic districts for the education, pleasure and welfare of the citizens of the city, and visitors to the city.~~

~~(Ord. No. 98-747, 11-17-98; Ord. No. 99-791, 9-21-99)~~

**Sec. 2-478. -Definitions.**

**“Alteration”** means work that changes the detail of a resource but does not change its basic size or shape.

**“Certificate of Appropriateness”** means the written approval of a permit application for work that is appropriate and does not adversely affect a resource.

**“Commission”** means the Historic District Commission of the City of Dearborn.

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

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

**“Fire Alarm System”** means a system designed to detect and annunciate the presence of fire or by-products of fire.

**“Historic District”** means an area, or group of areas, not necessarily having contiguous boundaries, that contains one resource or a group of resources that are related by history, architecture, archaeology, engineering, or culture.

**“Historic Preservation”** means the identification, evaluation, establishment, and protection of resources significant in history, architecture, archaeology, engineering, or culture.

**“Historic Resource”** means a publicly or privately owned building, structure, site, object, feature or open space that is significant in the history, architecture, archaeology, engineering, or culture of the City of Dearborn, State of Michigan, or the United States.

**“Notice to Proceed”** means the written permission to issue a permit for work that is inappropriate and that adversely affects a resource, pursuant to a finding under Section 399.205(6) of Public Act 169 of 1970, as amended.

**“Open Space”** means undeveloped land, a naturally landscaped area, or a formal or man-made landscaped area that provides a connective link or buffer between other resources.

**“Ordinary Maintenance”** means keeping a resource unimpaired and in good condition through ongoing minor intervention, undertaken from time to time, in its exterior condition. Ordinary maintenance does not change the external appearance of the resource except through the elimination of the usual and expected effects of weathering. Ordinance maintenance does not constitute work for the purposes of this Ordinance.

**“Proposed Historic District”** means an area, or group of areas not necessarily having contiguous boundaries, that has delineated boundaries and that is under review by a committee or a standing committee for the purpose of making a recommendation as to whether it should be established as a historic district or added to an established historic district.

**“Smoke Alarm”** means a single-station or multiple-station alarm responsible to smoke and not connected to a system. As used in this subdivision, “single-station alarm” means an assembly incorporating a detector, the control equipment, and the alarm sounding device into a single unit, operated from a power supply either in the unit or obtained at the point of installation. “Multiple-station alarm” means 2 or more single-station alarms that are capable of interconnection such that actuation of 1 alarm causes all integrated separate audible alarms to operate.

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

**“Resource”** means one or more publicly or privately owned historic or non-historic buildings, structures, sites, objects, features, or open spaces located within a historic district.

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

~~Sec. 2-478.—Exception.~~

~~—The provisions of this division shall not apply to the historic district designations in effect on the date of enactment of this division. For reference, the historic districts not covered by this division are:~~

~~—(1) Springwells Park Historic District; and~~

~~—(2) Ford Homes Historic District.~~

~~(Ord. No. 98-747, 11-17-98; Ord. No. 99-791, 9-21-99)~~

~~Sec. 2-479.—Definitions.~~

~~—As used in this division:~~

~~—Alteration means work that changes the detail of a resource but does not change its basic size or shape.~~

~~—Bureau means the Bureau of History of the Michigan Department of State.~~

~~—Certificate of appropriateness means the written approval of a permit application for work that is appropriate and that does not adversely affect a resource.~~

~~—Commission means the historic preservation commission, which is the name the city of Dearborn has chosen to identify the "historic district commission" it has established pursuant to authorization of state law, MCL 309.201 et. seq. For purposes of this division and all other purposes, the term "historic preservation commission" shall be deemed to mean the "historic district commission" of the city.~~

~~—Committee means a historic district study committee appointed by the mayor.~~

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

~~—Demolition by neglect means neglect in maintaining, repairing or securing a resource that results in deterioration of an exterior feature of the resource or the loss of structural integrity of the resource.~~

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

~~—Historic district means an area, or group of areas not necessarily having contiguous boundaries, that contains one resource or a group of resources that are related by history, architecture, archaeology, engineering, or culture. A historic landmark as defined below shall be considered a historic district for purposes of this division and state law.~~

~~—Historic landmark means any site, building, structure or object significant in history, architecture, archaeology and culture. A historic landmark is a historic district under the meaning described above that contains only one resource.~~

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

~~—Historic resource means a publicly or privately owned building, structure, site, object, feature, or open space that is significant in the history, architecture, archaeology, engineering, or culture of this state, or a community within this state, or of the United States.~~

~~—Notice to proceed means the written permission to issue a permit for work that is inappropriate and that adversely affects a resource pursuant to a finding under subsection 2-481(6).~~

~~—Open space means undeveloped land, a naturally landscaped area, or a formal or man-made landscaped area that provides a connective link or a buffer between other resources.~~

~~—Ordinary maintenance means keeping a resource unimpaired and in good condition through ongoing minor intervention, undertaken from time to time, in its exterior condition. Ordinary maintenance does not change the external appearance of the resource except through the elimination of the usual and expected effects of weathering. Ordinary maintenance does not constitute work for purposes of this division.~~

~~—Proposed historic district means an area or group of areas not necessarily having contiguous boundaries that has delineated boundaries and that is under review by a committee for the purpose of making a recommendation as to whether it should be established as a historic district or added to an established historic district.~~

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

~~Resource means one or more publicly or privately owned historic or non-historic building, structure, site, object, feature, or open space located within a historic district.~~

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

~~(Ord. No. 98-747, 11-17-98; Ord. No. 99-791, 9-21-99)~~

## **Sec. 2-479. -Historic District Study Committee and the Study Committee Report.**

Before establishing a historic district(s), the City Council shall appoint a Historic District Study Committee. A majority of the persons appointed to the Study Committee shall have a clearly demonstrated interest in or knowledge of historic preservation. The Study Committee shall contain representation of at least one member appointed from one or more duly organized local historic preservation organizations.

The Study Committee shall do all of the following:

- A. Conduct a photographic inventory of resources within each proposed historic district following procedures established by the State Historic Preservation Office.
- B. Conduct basic research of each proposed historic district and historic resources located within that district.
- C. Determine the total number of historic and non-historic resources within a proposed historic district and the percentage of historic resources of that total. In evaluating the significance of historic resources, the Committee shall be guided by the selection criteria for evaluation issued by the United States Secretary of the Interior for inclusion of resources in the National Register of Historic Places, as set forth in 36 CFR part 60, and criteria established or approved by the State Historic Preservation Office.
- D. Prepare a preliminary Historic District Study Committee report that addresses at a minimum all of the following:
  1. The charge of the Committee
  2. The composition of Committee membership.
  3. The historic district(s) studied.
  4. The boundaries of each proposed historic district in writing and on maps.
  5. The history of each proposed historic district.
  6. The significance of each district as a whole, as well as a sufficient number of its individual resources to fully represent the variety of resources found within the district, relative to the evaluation criteria.

7. Transmit copies of the preliminary report for review and recommendations to the local planning body, the State Historic Preservation Office, the Michigan Historical Commission, and the State Historic Preservation Review Board.
  8. Make copies of the preliminary report available to the public pursuant to Section 399.203(4) of Public Act 169 of 1970, as amended.
- E. Not less than sixty (60) calendar days after the transmittal of the preliminary report, the Historic District Study Committee shall hold a public hearing in compliance with Public Act 267 of 1976, as amended. Public notice of the time, date, and place of the hearing shall be given in the manner required by Public Act 267. Written notice shall be mailed by first class mail not less than fourteen (14) calendar days prior to the hearing to the owners of properties within the proposed historic district, as listed on the most current tax rolls. The report shall be made available to the public in compliance with Public Act 442 of 1976, as amended.
- F. After the date of the public hearing, the Committee and the City Council have not more than one year, unless otherwise authorized by the City Council, to take the following actions:
1. The Committee shall prepare and submit a final report with its recommendations and the recommendations, if any, of the local planning body to the City Council as to the establishment of a Historic District(s). If the recommendation is to establish a Historic District(s), the final report shall include a draft of the proposed ordinance(s).
  2. After receiving a final report that recommends the establishment of a Historic District(s), the City Council, at its discretion, may introduce and pass or reject an ordinance(s). If the City Council passes an ordinance(s) establishing one or more Historic Districts, the City shall file a copy of the ordinance(s), including a legal description of the property or properties located within the Historic District(s) with the Register of Deeds. The City Council shall not pass an ordinance establishing a contiguous historic district less than 60 days after a majority of the property owners within the proposed historic district, as listed on the tax rolls of the local unit, have approved the establishment of the historic district pursuant to a written petition. **For purposes of determining a majority, there shall be one vote per parcel.**
- G. A writing prepared, owned, used, in the possession of, or retained by a committee in the performance of an official function of the Historic District Commission should be made available to the public in compliance with Public Act 442 of 1976, as amended.

~~Sec. 2-480.— Historic preservation commission.~~

~~—The historic preservation commission is hereby established. It shall consist of seven members who reside in the city. The mayor shall appoint members for three-year terms except the initial appointments of some of the members shall be for less than three years so that the initial appointments are staggered and that subsequent appointments do not recur at the same time. A majority of the members shall have a clearly demonstrated interest in or knowledge of historic preservation. Members shall serve without compensation and shall be eligible for reappointment. In the event of a vacancy on the commission, interim appointments shall be made by the mayor within 60 calendar days to complete the unexpired term of such position. One member shall be a graduate of an accredited school of architecture who has two years of architectural experience or who is an architect duly registered in the state. Two members shall be members of a recognized historical preservation organization. A person or representative of a person shall be entitled to appear at any public meeting of the commission and be heard on any matter before the commission before it reaches a decision. The commission shall meet monthly or more frequently at the call of the chairman.~~

~~(Ord. No. 98-747, 11-17-98; Ord. No. 99-791, 9-21-99)~~

**Sec. 2-480. -Establishing Additional, Modifying, or Eliminating Historic Districts.**

1. The City Council may at any time establish by ordinance additional historic districts, including proposed districts previously considered and rejected, may modify boundaries of an existing historic district, or may eliminate an existing historic district. Before establishing, modifying, or eliminating a historic district, a historic district study committee appointed by the City Council shall follow the procedures as stated in Section 399.203(1-3) of Public Act 169 of 1970, as amended, and Section 2-479 of this Ordinance. To conduct these activities, the City Council may retain the initial committee, establish a standing committee, or establish a committee to consider only specific proposed districts and then be dissolved. The committee shall consider any previously written committee reports pertinent to the proposed action.
2. In considering elimination of a historic district, a committee shall follow the procedures set forth in Section 399.203 (1-3) of Public Act 169 of 1970, as amended, and Section 2-479 of this Ordinance, for the issuance of a preliminary report, holding a public hearing, and issuing a final report but with the intent of showing one or more of the following:
  - a. The historic district has lost those physical characteristics that enabled the establishment of the district.
  - b. The historic district was not significant in the way previously defined.
  - c. The historic district was established pursuant to defective procedures.



~~Sec. 2-481. -- Permits.~~

~~—(1) A permit shall be obtained before any work affecting the exterior appearance of a resource is performed within a historic district or, if required under subsection (4), work affecting the interior arrangements of a resource, is performed within a historic district. The person, individual, partnership, firm, corporation, organization, institution, or agency of government proposing to do the work shall file an application for a permit with the building and safety department. Upon receiving an application, the building and safety department shall immediately forward to the commission the application and all supporting materials. A permit shall not be issued and proposed work shall not proceed until the commission has acted on the application by issuing a certificate of appropriateness or a notice to proceed.~~

~~—(2) An applicant aggrieved by a decision of the commission concerning a permit application may file an appeal with the State Historic Preservation Review Board of the Michigan Historical Commission within the department of state. The appeal shall be filed within 60 days after the decision is furnished to the applicant. The appellant may submit all or part of the appellant's evidence and arguments in written form. The review board shall consider an appeal at its first regularly scheduled meeting after receiving the appeal, but may not charge a fee for considering an appeal. The review board may affirm, modify, or set aside a commission's decision and may order a commission to issue a certificate of appropriateness or a notice to proceed. A permit applicant aggrieved by the decision of the state historic preservation review Board may appeal the decision to the Wayne County Circuit Court.~~

~~—(3) In reviewing plans, the commission shall follow the U.S. Secretary of the Interior's Standards for rehabilitation and guidelines for rehabilitating historic buildings, as set forth in 36 C.F.R. part 67. Design review standards and guidelines that address special design characteristics of historic districts administered by the commission may be followed if they are equivalent in guidance to the secretary of interior's standards and guidelines and are established or approved by the bureau. The commission shall also consider all of the following:~~

~~—(a) The historic or architectural value and significance of the resource and its relationship to the historic value of the surrounding area.~~

~~—(b) The relationship of any architectural features of the resource to the rest of the resource and to the surrounding area.~~

~~—(c) The general compatibility of the design, arrangement, texture, and materials proposed to be used.~~

~~—(d) Other factors, such as aesthetic value, that the commission finds relevant.~~

~~—(4) The commission shall review and act upon only exterior features of a resource that are visible from the public right of way and shall not review and act upon interior arrangements unless interior work will cause visible change to the exterior of the resource as seen from the public right of way. The commission shall not disapprove an application due to considerations not prescribed in subsection (3).~~

~~—(5) If an application is for work that will adversely affect the exterior of a resource the commission considers valuable to the city, state, or nation, and the commission determines that the alteration or loss of that resource will adversely affect the public~~

~~purpose of the city, state, or nation, the commission shall attempt to establish with the owner of the resource an economically feasible plan for preservation of the resource.~~

~~—(6) Work within a historic district or on a historic landmark shall be permitted through the issuance of a notice to proceed by the commission if any of the following conditions prevail and if the proposed work can be demonstrated by a finding of the commission to be necessary to substantially improve or correct any of the following conditions:~~

~~—(a) The resource constitutes a hazard to the safety of the public or to the structure's occupants.~~

~~—(b) The resource is a deterrent to a major improvement program that will be of substantial benefit to the community and the applicant proposing the work has obtained all necessary planning and zoning approvals, financing, and environmental clearances.~~

~~—(c) Retaining the resource will cause undue financial hardship to the owner when a governmental action, an act of God, or other events beyond the owner's control created the hardship, and all feasible alternatives to eliminate the financial hardship, which may include offering the resource for sale at its fair market value or moving the resource to a vacant site within the historic district, have been attempted and exhausted by the owner.~~

~~—(d) Retaining the resource is not in the interest of the majority of the community.~~

~~—(7) The business that the commission may perform shall be conducted at a public meeting of the commission held in compliance with the Open Meetings Act, MCL 15.261 et. seq. A meeting agenda shall be part of the notice and shall include a listing of each permit application to be reviewed or considered by the commission.~~

~~—(8) The commission shall keep a record of its resolutions, proceedings, and actions. A writing prepared, owned, used, in the possession of, or retained by the commission in performance of an official function shall be made available to the public in compliance with the Michigan Freedom of Information Act, MCL 15.231 et. seq.~~

~~—(9) The commission shall adopt its own rules of procedures and shall adopt design review standards and guidelines for recourse treatment to carry out its duties in accordance with this division.~~

~~—(10) The commission may delegate the issuance of certificates of appropriateness for specified minor classes of work to the building and safety department. The commission shall provide the building and safety department with specific written standards for issuing certificates of appropriateness under this subsection. On at least a quarterly basis, the commission shall review the certificates of appropriateness, if any, issued by the building and safety department to determine whether or not the delegated responsibilities should be continued.~~

~~—(11) Upon a finding by the commission that a historic resource within a historic district or a proposed historic district subject to its review and approval or a historic landmark is threatened with demolition by neglect, the commission may do either of the following:~~

~~—(a) Require the owner of the resource to repair all conditions contributing to the demolition by neglect.~~

~~—(b) If the owner does not make repairs within a reasonable time, the commission or its agents may enter the property and make such repairs as are necessary to prevent demolition by neglect. The costs of the work shall be charged to the owner, and may be~~

levied by the city council as a special assessment against the property. The commission or its agents may enter the property for purposes of this section upon obtaining an order from the Wayne County Circuit Court.

~~—(12) When work has been done upon a resource without a permit and the commission finds that the work does not qualify for a certificate of appropriateness, the commission may require an owner to restore the resource to the condition the resource was in before the inappropriate work or to modify the work so that it qualifies for a certificate of appropriateness. If the owner does not comply with the restoration or modification requirements within a reasonable time, the commission may seek an order from the Wayne County Circuit Court to require the owner to restore the resource to its former condition or to modify the work so that it qualifies for a certificate of appropriateness. If the owner does not comply or cannot comply with the order of the court, the commission or its agents may enter the property and conduct work necessary to restore the resource to its former condition or modify the work so that it qualifies for a certificate of appropriateness in accordance with the court's order. The costs of the work shall be charged to the owner, and may be levied by the city council as a special assessment against the property. When acting pursuant to an order of the Wayne County Circuit Court, the commission or its agents may enter a property for the purposes of this section.~~

~~—(13) The commission shall file certificates of appropriateness, notices to proceed and denials of applications for permits with the building and safety department. A permit shall not be issued until the commission has acted as prescribed by this division. If a permit application is denied, the decision shall be binding on the building and safety department. A denial shall be accompanied with a written explanation by the commission of the reasons for denial and, if appropriate, a notice that an application may be resubmitted for commission review when suggested changes have been made. The denial shall also include notification of the applicant's right of appeal to the state historic preservation review board and to the Wayne County Circuit Court. The failure of the commission to act within 60 days after the date a complete application is filed with the commission, unless the applicant and the commission agree upon an extension in writing, shall be considered to constitute approval.~~

~~—(14) Nothing in this division shall be construed to prevent ordinary maintenance or repair of a resource within a historic district or to prevent work on any resource under a permit issued by the building and safety department before this division was enacted. (Ord. No. 98-747, 11-17-98; Ord. No. 99-791, 9-21-99)~~

### **Sec. 2-481. -The Historic District Commission.**

The City Council may establish by ordinance a commission to be called a historic district commission. The Commission may be established at any time, but not later than the time the first historic district is established. Each member of the Commission shall reside within the city limits. The Commission shall consist of seven (7) members. Members shall be appointed by the City Council. A majority of the members shall have a clearly demonstrated interest in or knowledge of historic preservation. Members shall be appointed for a term of three (3) years, except the initial appointments of three (3)

members for a term of two (2) years and two (2) members for a term of one year. Subsequent appointments shall be for three-year terms. Members shall be eligible for reappointment. In the event of a vacancy on the Commission, interim appointments shall be made by the City Council within sixty (60) calendar days to complete the unexpired term of such position. Two (2) members shall be appointed from a list submitted by duly organized local historic preservation organizations. If such a person is available for appointment, one member shall be an architect who has two years of architectural experience or who is duly registered in the State of Michigan.

The City Council may prescribe powers and duties of the Commission, in addition to those prescribed in this Ordinance, that foster historic preservation activities, projects, and programs in the City of Dearborn.

~~Sec. 2-482. — Acceptance of gift or grant.~~

~~—The city council may accept state or federal grants; may participate in state and federal programs that benefit historic preservation; may accept public or private gifts for historic preservation purposes; and may appoint the commission to administer on its behalf grants and gifts for the purpose herein provided. The director of finance shall be custodian of the funds of the commission and the secretary or other officer designated by the commission shall certify authorized expenditures to the director of finance. The commission shall annually report to the city council any money it shall receive or expend.~~

~~(Ord. No. 98-747, 11-17-98; Ord. No. 99-791, 9-21-99)~~

**Sec. 2-482. -Historic District Commission Meetings, Recordkeeping, and Rules of Procedure.**

1. The Historic District Commission shall meet at least quarterly or more frequently at the call of the Commission.
2. The business that the Commission may perform shall be conducted at a public meeting held in compliance with the Open Meetings Act, Public Act 267 of 1976, as amended. Public notice of the date, time, and place of the meeting shall be given in the manner required by Public Act 267. A meeting agenda shall be part of the notice and shall include a listing of each permit application to be reviewed or considered by the Commission.
3. The Commission shall keep a record of its resolutions, proceedings and actions. A writing prepared, owned, used, in the possession of, or retained by the Commission in the performance of an official function shall be made available to the public in compliance with the Freedom of Information Act, Public Act 442 of 1976, as amended.

4. The Commission shall adopt its own rules of procedure and shall adopt design review standards and guidelines to carry out its duties under this Ordinance.

~~Sec. 2-483. — Right of appeal.~~

~~—Pursuant to MCL 399.211, any citizen or duly organized historic preservation organization in the city, as well as resource property owners, jointly or severally aggrieved by a decision of the commission may appeal the decision to the circuit court, except that a permit applicant aggrieved by a decision of the commission may not appeal to the court without first exhausting the right to appeal to the state historic preservation review board pursuant to MCL 399.205(2). (Ord. No. 98-747, 11-17-98; Ord. No. 99-791, 9-21-99)~~

**Sec. 2-483. -Delegation of Minor Classes of Work.**

The Commission may delegate the issuance of Certificates of Appropriateness for specified minor classes of work to its staff, or to another delegated authority. The Commission shall provide to its delegated authority specific written standards for issuing Certificates of Appropriateness under this subsection. The Commission shall review the Certificates of Appropriateness issued by the delegate on at least a quarterly basis to determine whether or not the delegated responsibilities should be continued.

~~Sec. 2-484. — Historic district study committee.~~

~~—(1) The city council may, by ordinance, establish one or more historic districts and historic landmarks. The commission established by this division shall administer the historic districts and landmarks. Before establishing, modifying, or eliminating a historic district or historic landmark, a study complying with this section, including reports and hearings, shall be conducted by a historic district study committee appointed by the city council. A historic district study committee shall contain a majority of persons who have a clearly demonstrated interest in or knowledge of historic preservation and shall contain representation from one or more duly organized local historic preservation organizations. The committee shall do all of the following:~~

~~—(a) Conduct a photographic inventory of resources within each proposed historic district following procedures established or approved by the bureau.~~

~~—(b) Conduct basic research of each proposed historic district and the historic resources located within that district.~~

~~—(c) Determine the total number of historic and nonhistoric resources within a proposed historic district and the percentage of the historic resources of that total. In evaluating the significance of historic resources, the committee shall be guided by the selection criteria for evaluation issued by the United States Secretary of the Interior for inclusion of resources in the national register of historic places, as set forth in 36 C.F.R. part 60, and criteria established or approved by the bureau, if any.~~

~~—(d) Prepare a preliminary historic district study committee report that addresses at a minimum all of the following:~~

~~—i. The charge of the committee.~~

- ~~— ii. The composition of the committee membership.~~
- ~~— iii. The historic district or districts studied.~~
- ~~— iv. The boundaries for each proposed historic district in writing and on maps.~~
- ~~— v. The history of each proposed historic district.~~
- ~~— vi. The significance of each district as a whole, as well as a sufficient number of its individual resources to fully represent the variety of resources found within the district relative to the evaluation criteria.~~
- ~~— (e) Transmit copies of the preliminary report for review and recommendations to the city planner, the bureau, the michigan historical commission, and to the state historic preservation review board.~~
- ~~— (f) Make copies of the preliminary report available to the public pursuant to subsection (4).~~
- ~~— (2) Not less than 60 calendar days after the transmittal of the preliminary report, the committee shall hold a public hearing in compliance with the Open Meetings Act, MCL 15.261 et. seq. Public notice of the time, date, and place of the hearing shall be given in the manner required by the Open Meetings Act. Written notice shall be mailed by first class mail not less than 14 calendar days before the hearing to the owners of properties within the proposed historic district as listed on the tax rolls of the city assessor. An audio record of the public hearing shall be maintained by the committee.~~
- ~~— (3) After the date of the public hearing, the committee and the city council shall have not more than one year, unless otherwise authorized by the city council, to take the following actions:~~
  - ~~— (a) The committee shall prepare and submit a final report, including an audio record of the public hearing, with recommendations and the recommendations, if any, of the city planner to the city council. If the recommendations is to establish a historic district or districts, the final report shall include a draft of a proposed ordinance or ordinances.~~
  - ~~— (b) After receiving a final report that recommends the establishment of a historic district or districts, the city council, at its discretion, may introduce and pass or reject an ordinance or ordinances. If the city council passes an ordinance or ordinances establishing one or more historic districts, the city clerk shall file a copy of the ordinance or ordinances, including legal description of the property or properties located within the historic district or districts with the Wayne County Register of Deeds. The city council shall not pass an ordinance establishing a historic district less than 60 days after a majority of the property owners within the proposed historic district as listed on the tax rolls of the local unit, have approved the establishment of the historic district pursuant to a written petition. However, such a petition shall not be a prerequisite to the establishing, modifying, or eliminating of a historic district or historic landmark, as the city council in its discretion deems advisable.~~
- ~~— (4) A writing prepared, owned, used, in the possession of, or retained by a committee in the performance of an official function shall be made available to the public in compliance with the Michigan Freedom of Information Act, MCL 15.231 et. seq. (Ord. No. 98-747, 11-17-98; Ord. No. 99-791, 9-21-99)~~

## **Sec. 2-484. Ordinary Maintenance.**

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

## ~~Sec. 2-485. Historic districts.~~

~~—(1) The city council may at any time establish by ordinance historic districts and landmarks, including proposed districts and landmarks previously considered and rejected, may modify boundaries of an existing historic district or landmark, or may eliminate an existing historic district or landmark. Before establishing, modifying, or eliminating a historic district or landmark, a historic district study committee appointed by the city council shall, except as provided in subsection (2), comply with the procedures set forth in section 2-484 and shall consider previously written committee reports pertinent to the proposed action.~~

~~—(2) If considering elimination of a historic district or landmark, a committee shall follow the procedures set forth in section 2-484 for issuing a preliminary report holding a public hearing and issuing a final report but with the intent of showing one or more of the following:~~

~~—(a) The historic district has those physical characteristics that enabled establishment of the district.~~

~~—(b) The historic district was not significant in the way previously defined.~~

~~—(c) The historic district was established pursuant to defective procedures.~~

~~—(3) Upon receipt of substantial evidence showing the presence of historic architectural, archaeological, engineering, or cultural significance of a proposed historic district, the city council may, at its discretion, adopt a resolution requiring that all applications for permits within the proposed historic district be referred to the commission. The commission shall review permit applications with the same powers that would apply if the proposed historic district was an established historic district. The review may continue in the proposed historic district for not more than one year, or until such time as the city council approves or rejects the establishment of the historic district by ordinance, whichever comes first.~~

~~—(4) If the city council determines that pending work will cause irreparable harm to resources located within an established historic district or a proposed historic district, the city council may, by resolution, declare an emergency moratorium of all such work for a period not to exceed six months. The city council may extend the emergency moratorium for an additional period not to exceed six months upon finding that the threat of irreparable harm to resources is still present. Any pending permit application concerning a resource subject to an emergency moratorium may be summarily denied.~~

~~(Ord. No. 98-747, 11-17-98; Ord. No. 99-791, 9-21-99)~~

**Sec. 2-485. Review by the Commission.**

The Commission shall review and act upon only exterior features of a resource and shall not review and act upon interior arrangements unless specifically authorized to do so by the City Council or unless the interior work will cause visible change to the exterior of the resource. The Commission shall not disapprove an application due to considerations not prescribed in subsection 399.205(3) of Public Act 169 of 1970, as amended.

~~Sec. 2-486. Historic landmark roster.~~

~~—The commission shall maintain a roster of historic landmarks and historic sites, which shall include a description of the characteristics of the historic landmark or historic site which justifies its designation, and a description of the particular features that should be preserved, and shall include the location and boundaries of the historic landmark or historic site.~~

~~(Ord. No. 98-747, 11-17-98; Ord. No. 99-791, 9-21-99)~~

**Sec. 2-486. Design Review Standards and Guidelines.**

1. In reviewing plans, the Commission shall follow the U.S. Secretary of Interior’s *Standards for Rehabilitation* and guidelines for rehabilitating historic buildings as set forth in 36 C.F.R. part 67. Design review standards and guidelines that address special design characteristics of historic districts administered by the Commission may be followed if they are equivalent in guidance to the Secretary of Interior’s *Standards* and guidelines and are established or approved by the State Historic Preservation Office.
  
2. In reviewing plans, the Commission shall also consider all of the following:
  - A. The historic or architectural value and significance of the resource and its relationship to the historic value of the surrounding area.
  
  - B. The relationship of any architectural features of the resource to the rest of the resource and to the surrounding area.
  
  - C. The general compatibility of the design, arrangement, texture, and materials proposed to be used.
  
  - D. Other factors, such as aesthetic value, that the commission finds relevant.



- E. Whether the applicant has certified in the application that the property where work will be undertaken has, or will have before the proposed project completion date, a fire alarm system or smoke alarm complying with the requirements of the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531.

~~Sec. 2-487. Advice and guidance to property owners.~~

~~—The commission, upon request of any property owner, shall render advice and guidance with respect to any proposed work on a designated landmark site or any designated historic district. In rendering such advice and guidance, the commission will be guided by the purposes and standards set forth in the division.~~

~~(Ord. No. 98-747, 11-17-98; Ord. No. 99-791, 9-21-99)~~

**Sec. 2-487. -Permit Applications.**

1. A permit shall be obtained before any work affecting the exterior of a resource is performed within a historic district. The person, individual, partnership, firm, corporation, organization, institution, or agency of government proposing to do that work shall file an application for a permit with the inspector of buildings or his/her designee. Upon receipt of a complete application, the inspector of buildings or his/her designee shall immediately refer the application, along with all required supporting materials that make the application complete to the commission. A permit shall not be issued, and proposed work shall not proceed until the Commission has acted on the application by issuing a Certificate of Appropriateness or a Notice to Proceed as prescribed by this Ordinance. A commission shall not issue a Certificate of Appropriateness unless the applicant certifies in the application that the property where work will be undertaken has, or will have before the proposed project completion date, a fire alarm system or a smoke alarm complying with the requirements of the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1532.
2. The Commission shall file Certificates of Appropriateness, Notices to Proceed, and Denials of applications for permits with the inspector of buildings or his/her designee. A permit shall not be issued until the Commission has acted as prescribed by this Ordinance.
3. If an application is for work that will adversely affect the exterior of a resource the Commission considers valuable to the City of Dearborn, the State of Michigan, or the nation, and the Commission determines that the alteration or loss of that resource will adversely affect the public purpose of the city, state, or nation, the Commission shall attempt to establish with the owner of the resource an economically feasible plan for the preservation of the resource.

4. The failure of the Commission to act on an application within sixty (60) calendar days after the date a complete application is filed with the Commission, unless an extension is agreed up on in writing by the applicant and the Commission, shall be considered to constitute approval.
5. The Commission may charge a reasonable fee to process a permit application.

~~Sec. 2-488.—Other duties.~~

~~—The commission may:~~

- ~~—(1) Assist and collaborate in studies and programs designed to identify and evaluate structures, sites and areas worthy of preservation.~~
- ~~—(2) Consult with and consider the ideas and recommendations of civic groups, public agencies, and citizens interested in historic preservation.~~
- ~~—(3) Inspect and investigate structures, sites and areas which it has reason to believe worthy of preservation.~~
- ~~—(4) Disseminate information to the public concerning those structures, sites and areas deemed worthy of preservation, and may encourage and advise property owners of the protection, enhancement, perpetuation and use of landmarks, historic sites, and other officially recognized property of historic interest.~~
- ~~—(5) Consider methods other than those provided for in this division for encouraging and achieving historic preservation, and make appropriate recommendations to the city council and other bodies and agencies, both public and private.~~
- ~~—(6) Establish such policies, rules and regulations as it deems necessary to administer its duties as herein provided.~~

~~(Ord. No. 98-747, 11-17-98; Ord. No. 99-791, 9-21-99)~~

**Sec. 2-488. – Denials.**

If a permit application is denied, the decision shall be binding on the inspector or other authority. A Denial shall be accompanied by a written explanation by the Commission of the reasons for denial and, if appropriate, a notice that an application may be re-submitted for Commission review when the suggested changes have been made. The Denial shall also include the certification of the applicant's right to appeal to the State Historic Preservation Review Board and to the circuit court.

~~Sec. 2-489.—Violations of division.~~

- ~~—(1) A person who violates this division is guilty of a misdemeanor.~~
- ~~—(2) In addition to the foregoing, a person who violates this division may also be adjudged responsible for a violation of the state "Local Historic District Act," MCL 309.201 et. seq., and may be subject to the civil penalties and remedies provided for in section 15 thereof.~~

~~(Ord. No. 98-747, 11-17-98; Ord. No. 99-791, 9-21-99)~~

**Sec. 2-489. -Notice to Proceed.**

Work within a historic district shall be permitted through the issuance of a Notice to Proceed by the Commission if any of the following conditions prevail and if the proposed work can be demonstrated by a finding of the Commission to be necessary to substantially improve or correct any of the following conditions.

1. The resource constitutes a hazard to the safety of the public or to the structure's occupants.
2. The resource is a deterrent to a major improvement program that will be of substantial benefit to the community and the applicant proposing the work has obtained all necessary planning and zoning approvals, financing, and environmental clearances.
3. Retaining the resource will cause undue financial hardship to the owner when a governmental action, an act of God, or other events beyond the owner's control created the hardship, and all feasible alternatives to eliminate the financial hardship, which may include offering the resource for sale at its fair market value or moving the resource to a vacant site within the historic district, have been attempted and exhausted by the owner.
4. Retaining the resource is not in the interest of the majority of the community.

~~Sec. 2-490. -Reserved.~~

**Sec. 2-490. -Appeal of a Commission Decision.**

1. An applicant aggrieved by a decision of the Commission concerning a permit application may file an appeal with the State Historic Preservation Review Board. The appeal shall be filed within sixty (60) calendar days after the decision is furnished to the applicant. The appellant may submit all or part of the appellant's evidence and arguments in written form. The State Historic Preservation Review Board shall consider an appeal at its first regularly scheduled meeting after receiving the appeal. A permit applicant aggrieved by the decision of the State Historic Preservation Review Board may appeal the decision to the Wayne County Circuit Court.
2. Any citizen or duly organized historic preservation organization in the City of Dearborn, as well as resource property owners, jointly or severally aggrieved by a decision of the historic district commission may appeal the decision to the circuit court, except that a permit applicant aggrieved by a decision rendered

under this Ordinance may not appeal to the circuit court without first exhausting the right of appeal to the State Historic Preservation Review Board.

**Sec. 2-490.1. -Work Without a Permit.**

When work has been done upon a resource without a permit, and the Commission finds that the work does not qualify for a Certificate of Appropriateness, the Commission may require an owner to restore the resource to the condition that the resource was in before the inappropriate work or to modify the work so that it qualifies for a Certificate of Appropriateness. If the owner does not comply with the restoration or modification requirement within a reasonable time, the Commission may seek an order from the circuit court to require the owner to restore the resource to its former condition or to modify the work so that it qualifies for a Certificate of Appropriateness. If the owner does not comply or cannot comply with the order of the court, the Commission or its agents may enter the property and conduct work necessary to restore the resource to its former condition or modify the work so that it qualifies for a Certificate of Appropriateness in accordance with the court's order. The costs of the work done shall be charged to the owner, and may be levied by the City of Dearborn as a special assessment against the property. When acting pursuant to an order of the circuit court, the Commission or its agents may enter a property for purposes of this section.

**Sec. 2-490.2. -Demolition by Neglect.**

Upon a finding by the Commission that a historic resource within a historic district or a proposed historic district subject to its review and approval is threatened with Demolition by Neglect, the Commission may do either of the following:

1. Require the owner of the resource to repair all conditions contributing to demolition by neglect.
2. If the owner does not make repairs within reasonable time, the Commission or its agents may enter the property and make such repairs as necessary to prevent Demolition by Neglect. The costs of the work shall be charged to the owner, and may be levied by the City of Dearborn as a special assessment against the property. The Commission or its agents may enter the property for purposes of this section upon obtaining an order from the circuit court.

**Sec. 2-490.3. -Review of Work in Proposed District.**

Upon receipt of substantial evidence showing the presence of historic, architectural, archaeological, engineering, or cultural significance of a proposed historic district, the City Council may, at its discretion, adopt a resolution requiring that all applications for permits within the proposed historic district be referred to the Historic District Commission as prescribed in Section 2-487 of the Ordinance. The Historic District

Commission shall review permit applications with the same powers that would apply if the proposed historic district was an established historic district. The review may continue in the proposed historic district for not more than one year, or until such time as the City Council approves or rejects the establishment of the historic district by ordinance, whichever occurs first.

**Sec. 2-490.4 – Emergency Moratorium.**

If the City Council determines that pending work will cause irreparable harm to resources located within an established or proposed historic district, the City Council may by resolution declare an emergency moratorium on all such work for a period not to exceed six (6) months. The City Council may extend the emergency moratorium for an additional period not to exceed six (6) months, upon finding that the threat of irreparable harm to resources is still present. Any pending permit application concerning a resource subject to an emergency moratorium may be summarily denied.

**Sec. 2-490.5 -Penalties for Violations.**

1. A person, individual, partnership, firm, corporation, organization, institution, or agency of government that violates this act is responsible for a civil violation and may be fined not more than \$5,000.00.
2. A person, individual, partnership, firm, corporation, organization, institution, or agency of government that violates this act may be ordered by the court to pay the costs to restore or replicate a resource unlawfully constructed, added to, altered, repaired, moved, excavated or demolished.
3. Enforcement of this Ordinance shall be the responsibility of the Property Maintenance and Development Services Department and the Economic and Community Development Department.

**Sec. 2-490.6 – Acceptance of Gifts or Grants.**

The City Council may accept state or federal grants for historic preservation purposes; may participate in state and federal programs that benefit historic preservation, and may accept public or private gives for historic preservation purposes. The City Council may appoint the Historic District Commission to accept and administer grants, gifts, and program responsibilities.

**Sec. 2-490.7 -Acquisition of Historic Resources.**

If all efforts by the Commission to preserve a resource fail, or if it is determined by the City Council that public ownership is most suitable, the City Council, if considered to be

in the public interest, may acquire the resource using public funds, public or private gifts, grants or proceeds from the issuance of revenue bonds. The acquisition shall be based upon the recommendation of the Commission. The Commission is responsible for maintaining publicly owned resources using its own funds, if not specifically designated for other purposes, or public funds committed for that use by the City Council. Upon recommendation of the Commission, the City may sell resources acquired under this section with protective easements included in the property transfer documents, if appropriate.