

## **CHAPTER 153: HISTORIC PRESERVATION**

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**§ 153.01 DECLARATION OF PUBLIC POLICY AND PURPOSES.**

(A) The City Council declares as a matter of public policy that the preservation, protection, perpetuation and use of areas, places, buildings, structures and other objects having special historical, community or aesthetic interest or value is a public necessity and is required in the interest of the health, prosperity, safety and welfare of the community.

(B) The purposes of this section are to:

- (1) Safeguard the heritage of the city by preserving sites and structures which reflect elements of the city's cultural, social, economic, political, visual or architectural history;
  - (2) Protect and enhance the city's appeal and attraction to residents, visitors and tourists and serve as a support and stimulus to business, industry and community;
  - (3) Enhance the visual and aesthetic character, diversity and interest of the city;
  - (4) Foster civic pride in the beauty and notable accomplishments of the past; and
  - (5) Promote the preservation and continued use of historic sites and structures for the education and general welfare of the people of the city.
- (1981 Code, 5 565.01)

**§ 153.02 DEFINITIONS.**

For the purpose of this chapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

***HERITAGE PRESERVATION SITE.*** Any area, place, building, structure, land, district or other object which has been duly designated a ***HERITAGE PRESERVATION SITE*** pursuant to § 153.04.  
(1981 Code, § 565.03)

**§ 153.03 HERITAGE PRESERVATION COMMISSION ESTABLISHED.**

(A) *Members.* There is created and established a City Heritage Preservation Commission, hereinafter the Commission, which shall consist of seven voting members. (Ord. 468, 2/23/2009)

(B) *Term.* The Mayor and Council shall initially designate two appointees to serve a term of one year, three appointees to serve a term of two years and three appointees to serve a term of three years. All subsequent appointments shall be for a term of three years. Members

may be reappointed for consecutive terms. 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.

(C) *Organization.* The Commission when formed shall elect from its members such officers as it may deem necessary. The Commission shall have the power to designate and appoint from its members various committees. The Commission shall make such bylaws 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. The Commission shall make an annual report containing a statement of its activities and plans to the City Council.

(D) *Program assistance.* To accomplish the intent and purpose of this chapter, the city shall provide the Commission with staff support, including employees of the city library staff acquainted with the historical archives and files to perform the duties prescribed under this chapter.

(1981 Code, §565.05)

#### **§ 153.04 DESIGNATION OF HERITAGE PRESERVATION SITES.**

(A) *Reports.* The City Council, upon request of the Commission, may direct the city staff to prepare studies, which catalog buildings, land, areas, districts or other objects to be considered for designation as a Heritage Preservation Site.

(B) *Criteria.* The Commission shall recommend to the City Council areas, buildings, districts or objects to be designated Heritage Preservation Sites. In considering the designation of Heritage Preservation Sites, the Commission shall apply the following criteria:

- (1) Its character, interest or value as part of the development heritage or cultural characteristics of the city, state or the United States;
- (2) Its location as a site of a significant historic event;
- (3) Its identification with a person or persons who significantly contributed to the culture and development of the city;
- (4) Its embodiment of distinguishing characteristics of an architectural style, period, form or treatment;
- (5) Its identification as work of an architect or meter builder whose individual work has influenced the development of the city;
- (6) Its embodiment of elements of architectural design, detail, materials or craftsmanship which represent a significant architectural innovation;

- (7) Its unique location or singular physical characteristic representing an established and familiar visual feature of a neighborhood, community or the city.

(C) *Planning Commission review.* The Commission shall advise the City Planning Commission of the proposed designation of a Heritage Preservation Site, including boundaries, and a program for the preservation of a Heritage Preservation Site and secure from the City Planning Commission its recommendation with respect to the relationship of the proposed heritage preservation designation to the Comprehensive Plan of the city and its opinion as to the effect of the proposed designation upon the surrounding neighborhood and any other planning consideration which may be relevant to the proposed designation. The Planning Commission shall also give its recommendation of approval, rejection or modification of the proposed designation. The recommendation shall become part of the official record concerning the proposed designation and shall be submitted by the Commission along with its recommendation concerning the proposed designation to the City Council. The Commission may make such modifications, changes and alterations concerning the proposed designation as it deems necessary in consideration of the recommendations of the City Planning Commission.

(D) *Communications with State Historical Society.* A copy of the Commission's proposed designation of a Heritage Preservation Site, including boundaries, and a program for the preservation of a Heritage Preservation Site shall be sent to the State Historical Society in accordance with Minnesota Statutes.

(E) *Hearings.* Prior to the 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 recommendations of all concerned citizens. Prior to such hearing the Commission shall cause to be published in a newspaper of general circulation notice of the hearing at least 30 days prior to the date of the hearing, and notice of the hearing shall be sent to all owners of the property proposed to be designated a Historic Preservation Site and to all property owners within 300 feet of the boundary of the area to be designated a Historic Preservation Site.

(F) *Findings and recommendations.* The Commission shall determine if the proposed Heritage Preservation Site is eligible for Heritage Preservation as determined by the criteria specified in division (B) of this section, and if the Commission recommends to the City Council that the site be designated for heritage preservation, the Commission shall transmit to the City Council with its recommendation its proposed program for the preservation of the site.

(G) *Council designation, hearings.* The City Council, upon the request of the Commission, may by ordinance designate a Heritage Preservation Site. Prior to such designation the City Council or one of its committees shall hold public hearings, notice of which shall be published in a newspaper of general circulation at least 30 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 property owners within 300 feet of the boundary of the area to be designated a Heritage Preservation Site.

(H) *Eminent domain.* The 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, negotiation or by eminent domain as provided for in M.S. Ch. 117 as it may be amended from time to time. (1981 Code, 5565.07)

### **§ 153.05 ADDITIONAL POWERS AND DUTIES OF COMMISSION.**

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

(A) The Commission shall conduct a continuing survey of all areas, places, buildings, structures or objects in the city which the Commission on the basis of information available or presented to it has reason to believe are significant to the culture, social, economic, political or architectural history of the city.

(B) The Commission shall continually survey all areas to determine needed and desirable improvements of older buildings throughout Lake City, acting in a resource and advisory capacity to owners of historically significant sites regarding their preservation, restoration and rehabilitation.

(C) The Commission shall work for the continuing education of the citizens of the city with respect to the civic and architectural heritage of the city. It shall keep current a public register of designated and proposed Heritage Preservation Sites and areas along with the plans and programs that pertain to them.

(D) The Commission may recommend to the city the acceptance of gifts and contributions to be made to the city and to assist the city staff in the preparation of applications for grant funds to be made through the city for the purpose of Heritage Preservation. Any contributions or gifts will be expanded in the manner provided through the fiscal policy of the city.

(E) The Commission may on a continuing basis collect and review certain city planning and development records, documents, studies, models, maps, plans and drawings to be entered into the Public Library Historical Archives as a permanent record of city history and development.

(F) The Commission shall make no application to the National Register or to the State of Minnesota for the designation of a historic site or district without the consent of the City Council. (1981 Code, 5565.09)

### **§ 153.06 REVIEW OF PERMITS.**

(A) *Site alteration permit.* The Commission shall review and recommend approval or disapproval of the issuance of a site alteration permit to do any of the following in a Heritage Preservation Site in the city. The application shall be accompanied by detailed plans, including a

site plan, building elevations and design details and materials as necessary to evaluate the request. Besides the site alteration permit the regular city permits shall be required.

- (1) Remodel, alter or repair in any manner, including paint color that will change the exterior appearance of a historic building or in a site.
- (2) New construction.
- (3) Signs.
- (4) Moving of buildings.
- (5) Demolition in whole or in part. This does not apply to structures required to be demolished in accordance with M.S. Ch. 463, as it may be amended from time to time.

(B) *City activity.* The Commission shall review and make recommendations to the City Council concerning city activity that could change the nature or appearance of a Heritage Preservation Site.

(C) *Preservation program.* All decisions of the Commission with respect to this section shall be in accordance with the approved program for the rehabilitation of each Heritage Preservation Site. The following guidelines shall be used to evaluate applications for site alteration permits:

- (1) Every reasonable effort shall be made to provide a compatible use for property which requires minimal alteration of the building, structure or site and its environment or to use a property for its originally intended purposes.
- (2) The distinguishing original qualities or character of a building, structure or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.
- (3) All buildings, structures and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged.
- (4) Changes which may have taken place in the course of time are evidence of the history and development of a building, structure or site and its environment. These changes may have acquired significance in their own right and this significance shall be recognized and respected.
- (5) Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure or site shall be treated with sensitivity.

- (6) Deteriorated architectural features shall be repaired rather than replaced, whenever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historic, physical or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.
- (7) The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage historic building materials shall not be undertaken.
- (8) Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural material and such design is compatible with the size, scale, color, material and character of the property, neighborhood or environment.
- (9) Whenever possible new additions or alterations to structures shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired. (1981 Code, §565.11)

### **§ 153.07 FINDINGS.**

Before approving any permit application required under §153.06 to be approved by the Commission, the Commission shall make findings based on the program for preservation and architectural control for the Heritage Preservation Site in regard to the following:

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

(B) In the case of the proposed demolition of a building prior to approval of the demolition, the Commission shall make written findings on the following: architectural and historic merit of the building, the effect on surrounding buildings, the effect of any new proposed construction on the remainder of the building (in case of partial demolition) and on surrounding buildings, the economic value or usefulness of 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.

(C) 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.  
(1981 Code, § 565.13)

**§ 153.08 LIMITATIONS.**

If within 60 days from the filing of 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 be issued or work commenced in the event the Commission disapproves the application in accordance with this section.

(1981 Code, § 565.15)

**§ 153.09 EMERGENCY REPAIR.**

In emergency situations where immediate repair is needed to protect the safety of the structure and its inhabitants, the Division of Housing and Building Code Enforcement may approve the repair without prior Commission action. In the case of a permit issued pursuant to this section, the Division of Housing and Building Code Enforcement shall immediately notify the Commission of its action and specify the facts or condition constituting the emergency situation.

(1981 Code, § 565.17)

**§ 153.010 APPEAL TO CITY COUNCIL.**

The permit applicant or any party aggrieved by the decision of the Commission shall, within ten days of the date of the 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 City Administrator of two copies of a notice of appeal and statement setting forth the grounds for the appeal. The City Administrator shall transmit one copy of the notice of appeal and statement to the City Council and one copy to the Commission. The Commission, in any written order denying a permit application, shall advise the applicant of his or her right to appeal to the City Council and include this section in all such orders.

(1981 Code, § 565.19)

**§ 153.011 REPOSITORY FOR DOCUMENTS.**

The office of the City Administrator is designated as the repository for at least one copy of all studies, reports, recommendations and programs required under this chapter.

(1981 Code, § 565.23)

**§ 153.012 RECORDING OF HERITAGE PRESERVATION SITES.**

The office of the City Administrator shall record with the Wabasha or Goodhue County Recorder or Wabasha or Goodhue County Registrar of Titles the legal description of all buildings, lands or areas designated as Heritage Preservation Sites by the City Council and shall transmit a copy of the legal descriptions to the Division of Housing and Building Code Enforcement.

(1981 Code, § 565.25)

**§ 153.98 VIOLATIONS.**

An owner or occupant of any area, place, building, structure or other object within a duly designated Heritage Preservation Site who violates the provisions of this chapter shall be guilty of a misdemeanor. Any architect, builder, contractor, agent, person or corporation who assists in the commission of a violation of this chapter shall be guilty of a misdemeanor. For each such 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 this chapter, it shall constitute a separate violation, and it shall be punishable as such. A Heritage Preservation Site on which there exists any remodeling, repairing, construction or a building moved in violation of this chapter is declared a nuisance, and the imposition of the penalties herein prescribed shall not prevent the city 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.

(1981 Code, §565.21) Penalty, see §10.99