



MEMORANDUM

TO: City Planning Commission Committee of the Whole (CPC CoW)
FROM: John Smoley, Ph.D., (612) 673-2830
DATE: June 26, 2014
SUBJECT: Proposed Conservation District Ordinance

In 2012 Councilmember Gordon introduced an amendment to the City's Heritage Preservation Regulations to permit the creation of conservation districts. CPED requests CPC CoW feedback on the proposed ordinance.

Staff has worked on this ordinance to fulfill Comprehensive Plan policy action item 8.8.2 which states, "In addition to local designation, develop other preservation tools, like conservation districts." The conservation district ordinance is intended to create a mechanism to protect character-defining features in neighborhoods in a way that's more prescriptive than the zoning code but less prescriptive than historic district design guidelines. The initial ordinance would only establish the framework for districts. It would not actually designate any districts. Such designations, as well as the development of district design guidelines, would occur at later dates when districts are nominated.

For 1 ½ years staff has worked with a twenty-member technical advisory team to craft the draft ordinance. Comments from members of the public have been solicited and incorporated, as appropriate, primarily through two public meetings. A copy of the draft ordinance is attached, with proposed additions to the existing Heritage Preservation Regulations underlined, and deletions stricken. The vast majority of the changes occur in the new conservation district article added to the end of the ordinance, but related changes, and code clean-up items, occur throughout the ordinance. A sheet bearing proposed application form details is also attached. The State Historic Preservation Office has commented favorably on the proposal, as noted in the attached letter. Following CPC CoW review, the ordinance will be considered for adoption by the Heritage Preservation Commission and City Council.

May 30, 2014

Mr. John Smoley
CPED-Planning
City of Minneapolis
250 South 4th Street—Room 110
Minneapolis MN 55415

RE: Proposed Conservation District Amendments to the City of Minneapolis' Heritage Preservation Regulations,
MHS Referral No. 2014-1740

Dear Mr. Smoley,

Thank you for the opportunity to comment on the above referenced amendments. They have been reviewed pursuant to Minnesota Statutes §471.193, subd. 6., and Section 599.210 of the City of Minneapolis Code of Ordinances.

First, we commend you and the city for undertaking the work to prepare the conservation district amendments. In our opinion, conservation districts are a useful planning tool that, when applied correctly and judiciously, can protect street facades, streetscapes and more in neighborhoods that may lack traditional groupings of intact, architecturally or historically significant cultural resources.

In order to be successful, we believe it is important that a proposed conservation district engage neighborhood residents early in the process and respond to a grassroots movement at the local level. To that end, securing consent by at least one-third of property owners within a proposed conservation district should ensure that residents are involved and approve of the district proposal. We also support the requirement that design guidelines must be drafted with active participation by property owners in a proposed district. While it may be more difficult to guarantee consent by two-thirds of owners in support of design guidelines, such a requirement should provide even greater opportunities for civic engagement. Finally, it is helpful and more efficient that most proposed alterations would be reviewed administratively by staff rather than the full HPC, in order to save time and prevent delays.

If you have questions regarding our assessment of these amendments, please feel free to contact me at 651-259-3452 or michael.koop@mnhs.org.

Sincerely,



Michael Koop
State Historic Preservation Office

Details Proposed to Be Added to Conservation District Study Application Forms

An application for a conservation district study must include the following:

- (1) public hearing application requirements, as identified in section 599.160 Application procedures;
- (2) a plat map identifying the boundaries of the proposed conservation district;
- (3) a list of all owners of record of property within the boundaries of the proposed conservation district, as identified in the records of the Hennepin County, with evidence documenting the consent of owners who represent one third or more of all tax parcels, excluding streets and alleys, within the proposed conservation district boundary;
- (4) a written description of the proposed district's design characteristics and a property-by-property inventory, to include a photograph of each, that identifies how the majority of properties in the proposed district does or does not meet each of the conservation district establishment criteria identified in section 599.720;
- (5) the name, address, and phone number of a designated representative of the potential district, who has the power to withdraw the application at any time;
- (6) a statement addressing why a zoning amendment or historic district designation would not be as appropriate as the establishment of a conservation district; and
- (7) any additional information that the planning director determines to be necessary

Details Proposed to Be Added to Conservation Certificate Application Forms

- (1) The application must include a copy of a letter delivered to the neighborhood group at least ten days prior to submittal of the application. The notification shall include the following information: a description of the project; the preservation approvals that the applicant is aware are needed for the project; the address of the property for which a preservation application is sought; and the applicant's name, address, telephone number, and e-mail address, if available. Where the property for which preservation approval is sought is located on a public street that acts as a boundary between two (2) neighborhoods, the above information shall also be provided to the neighborhood group(s) representing the adjacent area(s).

Title 23 HERITAGE PRESERVATION*

***Editor's note:** Ord. No. 2001-Or-028, § 1, adopted March 2, 2001, amended the Code by adding a new Title 23, entitled, "Heritage Preservation." See the Code Comparative Table.

- Ch. 599. Heritage Preservation Regulations, §§ 599.10--599.700
 - Art. I. General Provisions, §§ 599.10--599.110
 - Art. II. Duties of Decision Making Bodies and Officials, §§ 599.115--599.150
 - Art. III. General Application Procedures, §§ 599.160--599.175
 - Art. IV. Appeals, §§ 599.180, 599.190
 - Art. V. Designation, §§ 599.200--599.300
 - Art. VI. Certificate of Appropriateness, §§ 599.310--599.370
 - Art. VII. Certificate of No Change, §§ 599.380--599.430
 - Art. VIII. Historic Resources, §§ 599.440--599.480
 - Art. IX. Historic Variance, §§ 599.490--599.550
 - Art. X. Transfer of Development Rights, §§ 599.560--599.630
 - Art. XI. Maintenance, §§ 599.640--599.660
 - Art. XII. Enforcement, §§ 599.670--599.700
 - Art. XIII. Conservation Districts §§ 599.710-599.830

CHAPTER 599. HERITAGE PRESERVATION REGULATIONS

ARTICLE I. GENERAL PROVISIONS

599.10. Title. Chapter 599 of the Minneapolis Code of Ordinances shall be known and may be cited as the Heritage Preservation Regulations of the City of Minneapolis. (2001-Or-029, § 1, 3-2-01)

599.20. Authority. This chapter is enacted pursuant to the authority granted to the municipality by Minnesota Statutes sections 138.71 through 138.75, Minnesota Historic District Act of 1971, and Minnesota Statutes section 471.193, Municipal Heritage Preservation. (2001-Or-029, § 1, 3-2-01)

599.30. Purpose. This chapter is adopted to promote the recognition, preservation, protection and reuse of landmarks, historic districts, conservation districts, and historic resources; to promote the economic growth and general welfare of the city; to further educational and cultural enrichment; to implement the policies of the comprehensive plan, and to provide for the administration of this title including the powers and duties of officials and bodies charged with such administration, the standards for required approvals and the procedures for its enforcement. (2001-Or-029, § 1, 3-2-01)

599.40. Rules of construction. This chapter shall be liberally construed in order to accomplish the purposes set forth herein. (2001-Or-029, § 1, 3-2-01)

599.50. Scope of regulations. (a) *In general.* All landmarks, ~~and~~ historic districts, conservation districts, all nominated properties under interim protection and all historic resources shall be subject to all applicable requirements of this chapter.

(b) *Emergency exception.* Nothing in this chapter shall prevent the emergency alteration or other modification necessary to correct the unsafe or dangerous condition of any structure or other feature, where the director of inspections certifies to the planning director that such condition has been declared unsafe or dangerous and the proposed measures have been determined necessary to correct the condition without delay. However, only such work that is necessary to correct the unsafe or dangerous condition may be performed. The extent of such work shall be determined in consultation with the planning director who may recommend to the director of inspections that the salvage and preservation of specified building materials, architectural details, ornaments, fixtures and similar items be made a condition of such emergency alteration or modification. The planning director shall report to the commission not less than once per month all emergency alterations or other modifications certified to the planning director in the preceding month, the reasons for such emergency, and the nature and extent of the alteration or modification performed. (2001-Or-029, § 1, 3-2-01)

599.60. Existing landmarks and historic districts. All landmarks, historic districts and design guidelines existing on the effective date of this chapter shall remain in effect upon adoption of this chapter. (2001-Or-029, § 1, 3-2-01)

599.70. Period of decision. No approval granted pursuant to this chapter, except designations, shall be valid for a period longer than two (2) years from the date of such decision unless the required permit is obtained within such period and the action approved is substantially begun and proceeds on a continuous basis toward completion, or the use is established within such period by actual operation pursuant to the applicable conditions and requirements of such approval. The planning director, upon written request, may for good cause shown grant up to a one (1) year extension to this time limit. (2001-Or-029, § 1, 3-2-01; 2012-Or-069, § 1, 9-21-12)

599.80. Plan consistency. The city shall withhold any building permit, demolition permit or other approval required for a use if the proposal is inconsistent with the final approval granted pursuant to this chapter. (2001-Or-029, § 1, 3-2-01)

599.90. Compliance with conditions of approval. (a) *In general.* All approvals made pursuant to this chapter shall remain in effect as long as all of the conditions and guarantees of such approval are observed. Failure to comply with such conditions and guarantees shall constitute a violation of this chapter and may result in termination of the approval.

- (b) *Compliance with other regulations.* All approvals made pursuant to this chapter shall be subject to all other applicable city, local, regional, state and federal regulations. If a portion of this ordinance conflicts with any other provision of the Minneapolis Code of Ordinances or with any other provision of law, the more restrictive provision shall apply. (2001-Or-029, § 1, 3-2-01)

599.100. Severability. (a) *Severability of text.* If any portion of this chapter is determined to be invalid or unconstitutional by a court of competent jurisdiction, that portion shall be deemed severed from the regulations, and such determination shall not affect the validity of the remainder of the chapter.

- (b) *Severability of application.* If the application of any provision of this chapter to a particular property is determined to be invalid or unconstitutional by a court of competent jurisdiction, such determination shall not affect the application of said provision to any other property. (2001-Or-029, § 1, 3-2-01)

599.110. Definitions. Unless otherwise expressly stated, or unless the context clearly indicates a different meaning, the words and phrases in the following list of definitions shall, for the purposes of this chapter, have the meanings indicated. All words and phrases not defined shall have their common meaning.

Alteration. Any construction, addition, demolition, relocation or material change affecting the exterior of a landmark, property in an historic district or nominated property under interim protection, or the designated or nominated interior of any building, that the planning director has determined is not a minor alteration. 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) Addition of a structure.
- (4) 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.
- (5) 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.
- (6) Changes to or replacement of roofing materials.
- (7) Addition or removal of signs and awnings, or changes to or replacement of existing signs and awnings.
- (8) Changes to or replacement of landscaping or natural features that are inconsistent with the historic qualities of the property.

(9) Disturbance of archaeological sites or areas.

(10) Changes deemed to require a certificate of appropriateness by design guidelines.

Block. A tract of land bounded by streets, or by a combination of streets, railroad rights-of-way, shorelines, waterways or boundary lines of the corporate limits of the city.

Block face. The half block area of property facing a street. Corner properties shall be considered part of two block faces, one (1) for each of the two intersecting streets.

Certificate of appropriateness. A certificate issued by the planning director evidencing the review and authorization by the commission of plans for alteration of a landmark, property in an historic district or nominated property under interim protection.

Certificate of no change. A certificate issued by the planning director evidencing the review and authorization by the planning director of plans for minor alteration of a landmark, property in an historic district or nominated property under interim protection.

Conservation certificate. A certificate issued by the planning director evidencing the review and authorization by the planning director of plans for changes to a property in a conservation district.

City council. The City Council of the City of Minneapolis.

Conservation district. All property within a defined area established to perpetuate and proliferate the visual character evident in its notable architecture, development pattern, scale, engineering, or landscape design.

Commission. The ~~Heritage Preservation Commission~~ heritage preservation commission of the City of Minneapolis.

Cultural resource. An item, fixture, property, collection of properties, or place that is believed to have historical, cultural, architectural, archaeological or engineering integrity and significance.

Demolition. The act of moving or razing a building including the removal or enclosure of sixty (60) percent or more of the structure.

Designation study. A study and report prepared to document the historical, cultural, architectural, archaeological or engineering significance of a property.

Design guidelines. Specific design criteria adopted by the commission for landmarks, ~~and historic districts,~~ and conservation districts to be used in reviewing applications for certificates of appropriateness, ~~and certificates of no change,~~ and conservation certificates.

Destruction. The removal, damage or enclosure of architectural, mechanical or landscape features, including, but not limited to, the removal of the primary façade(s),

character defining façade(s), or the removal of the roof of the structure for the purpose of raising the overall height of the building or roof, that may have an adverse effect on the historical integrity and significance of a property.

Director of inspections. The Director of the City of Minneapolis Inspections Division or his or her authorized representative.

Conservation district plan. A report prepared to document the visual character evident in a defined area, for the purposes of identifying whether its notable architecture, development pattern, scale, engineering, or landscape design warrant protection as a conservation district, and which includes design guidelines created to guide development in the district.

Historic district. All property within a defined area designated as an historic district by the city council because of the historical, cultural, architectural, archaeological or engineering significance of the district, or designated as an historic district by state law.

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 landmark or historic district ~~as provided in this chapter.~~

Historic variance. Departure from the literal requirements of the zoning regulations governing a landmark or property in an historic district where strict adherence would cause undue hardship due to special conditions or circumstances unique to a site.

Integrity. The authenticity of a landmark, historic district, nominated property under interim protection or historic resource evidenced by its location, design, setting, materials, workmanship, feeling or association.

Interim protection. Protection from destruction or alteration given to a nominated property following the commission's decision to commence a designation study. Interim protection does not apply to conservation districts unless they have been nominated as historic districts or landmarks.

Landmark. Any property, or any interior of a building, designated as a landmark by the city council because of its historical, cultural, architectural, archaeological or engineering significance.

Minor alteration. An alteration that the planning director has determined does not affect the integrity of a landmark, historic district or nominated property under interim protection. Examples may include, but are not limited to, changes that the planning director has determined are not significant, and changes that reproduce the existing design and that are executed with the same type of materials and methods as existing if available, or with visually similar materials if the original materials are not available.

Nominated property. A property that has been nominated for designation as a landmark or historic district, pursuant to the requirements of this chapter.

Notability. The importance of a conservation district evidenced by embodiment of the distinctive characteristics of an architectural or engineering type or style, or method of construction; its exemplification of a landscape design or development pattern distinguished by innovation, rarity, uniqueness or quality of design or detail; or scale that

creates a cohesive identifiable setting.

Notable. A level of importance lower than that required for designation as a landmark or historic district but which is still important to the community's heritage.

Period of significance. The span of time that properties attain the characteristics that qualify them for designation.

Planning director. The Director of the Minneapolis City Planning Department or his or her authorized representative.

Potential ~~Historic~~ ~~historic District~~ district. A collection of ~~property~~ properties that ~~is~~ are believed to have historical, cultural, architectural, archaeological or engineering significance and to meet at least one (1) of the criteria for designation as an historic district ~~as provided in this chapter.~~

Property. Any land, building, structure or object, surface or subsurface area, natural or landscape feature.

Receiving site. The zoning lot on which transferred floor area is to be developed, pursuant to the requirements of this chapter.

Sending site. The zoning lot containing a landmark or located within an historic district, and from which undeveloped floor area is to be transferred, pursuant to the requirements of this chapter.

Significance. The ~~authenticity~~ importance of a landmark, historic district, nominated property under interim protection or historic resource evidenced by association with significant events or with periods that exemplify broad patterns of cultural, political, economic or social history; association with the lives of significant persons or groups; because it contains or is associated with distinctive elements of city or neighborhood identity; embodiment of the distinctive characteristics of an architectural or engineering type or style, or method of construction; its exemplification of a landscape design or development pattern distinguished by innovation, rarity, uniqueness or quality of design or detail; exemplification as a work of master builders, engineers, designers, artists, craftsmen or architects; because it has yielded, or may be likely to yield, information important in prehistory or history.

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, antennae, piers, bridges, docks and any objects or things permanently attached to the structure.

The Secretary of the Interior's Standards. The most recent standards for the treatment of historic properties established by the National Park Service, United States Department of the Interior.

Transfer of development rights. The conveyance of undeveloped floor area from one zoning lot to another zoning lot, pursuant to the requirements of this chapter. (2001-Or-029, § 1, 3-2-01; 2009-Or-023, § 1, 3-27-2009)

ARTICLE II. DUTIES OF DECISION MAKING BODIES AND OFFICIALS

599.115. Concurrent review. For the efficient administration of this preservation ordinance, whenever a project or proposal requires more than one (1) application for review by the planning director, heritage preservation commission, city planning commission and the board of adjustment, including but not limited to certificate of appropriateness, certificate on no change, historic variance, and transfer development rights, all applications shall be processed concurrently. Land use reviews by the zoning administrator, city planning commission, and the board of adjustment shall not be regulated by this section. (2009-Or-023, § 2, 3-27-2009)

599.120. Heritage preservation commission. (a) *Establishment.* The heritage preservation commission is established pursuant to the authority granted by Minnesota Statutes sections 138.71 through 138.75, Minnesota Historic District Act of 1971, and Minnesota Statutes section 471.193, Municipal Heritage Preservation. The commission shall perform its duties and exercise its powers as provided therein.

(b) *Jurisdiction and authority.* The commission shall have the following powers and duties in connection with the administration of this chapter:

- (1) To interpret and administer the provisions of this chapter.
- (2) To adopt and administer rules and regulations relating to the administration of this chapter.
- (3) To direct the commencement of designation studies, ~~as authorized by this chapter.~~
- (4) To hear and make recommendations to the city council on the proposed designation of landmarks and historic districts.
- (5) To hear and decide applications for certificate of appropriateness.
- (6) To hear and decide applications for demolition of historic resources.
- (7) To hear and decide appeals from decisions of the planning director, director of inspections or other official, ~~as authorized by this chapter.~~
- (8) To hear and make recommendations to the city council on proposed historic variances.
- (9) To hear and make recommendations to the city council on proposed transfers of development rights.
- (10) To adopt design guidelines for landmarks, ~~and~~ historic districts, and conservation districts, and to revise design guidelines as necessary.
- ~~(11) To review and make recommendations to the city council on proposed amendments to the zoning code.~~
- (~~11~~) To make recommendations to the city council on proposed amendments to this chapter.

~~(4312)~~ To inform and educate the citizens of Minneapolis concerning the historical, cultural, architectural, archaeological or engineering heritage of the city.

~~(4413)~~ To seek and identify incentives to encourage both public and private investments in preserving the city's landmarks, historic districts and historic resources.

~~(4514)~~ To make recommendations to the city council that designated properties or historic resources be acquired by purchase, gift or by eminent domain.

~~(4615)~~ To take such other actions as are reasonable and necessary for the administration and enforcement of this chapter.

(16) To review and make recommendations to the city council on proposed conservation district establishment, amendment, and repeal.

(17) To hear and decide applications for conservation certificate public hearing reviews.

- (c) *Commission membership.* The commission shall consist of ten (10) members, each of whom shall reside in Minneapolis. Members shall be persons with demonstrated interest, knowledge, ability or expertise in historic preservation, neighborhood revitalization, archaeology, urban planning, history or architecture. One (1) shall be the representative of the mayor. If available, at least two (2) shall be registered architects, at least one (1) shall be a licensed real estate agent or appraiser, at least one (1) shall reside in or own a landmark or property in an historic district, and if available at least one (1) shall be a member of the Hennepin ~~County historical society~~ History Museum. All appointments, except the mayor's representative, shall be made by the city council and all appointments shall follow the open appointments process contained in section 14.180 of the Minneapolis Code of Ordinances, and as provided in the rules and procedures of the commission. Applicants for appointment to the commission shall be interviewed by a committee of the planning director and one (1) member of the commission who shall recommend applicants to ~~the zoning and planning committee~~ of the city council. Members shall serve for a term of three (3) years, and shall be appointed as the terms of the present members of the commission expire. No member shall serve more than three (3) full terms consecutively. Any member may reapply for appointment after missing one (1) full term.
- (d) *Public hearings.* The commission shall schedule public hearings not less than once per month. Such public hearings shall be noticed and conducted pursuant to the provisions of section 599.170.
- (e) *Rules and procedures.* The commission shall adopt policies and procedures for the conduct of its meetings, the processing of applications, appointments to the commission and any other purposes considered necessary for its proper functioning, and shall select or appoint officers as it deems necessary. Such policies and procedures shall be consistent with this chapter.
- (f) *Compensation.* Members of the commission shall be paid at the rate of fifty dollars (\$50.00) for each public meeting attended with a limitation of four (4) meetings per

month. (2001-Or-029, § 1, 3-2-01; 2001-Or-144, § 1, 11-21-01; 2009-Or-023, § 3, 3-27-2009; 2010-Or-039, § 1, 4-16-10)

599.130. Planning director. The planning director shall assist the commission in discharging its duties and shall have the following powers and duties in connection with the administration of this chapter:

- (1) To serve as staff to the heritage preservation commission.
- (2) To receive, review and process all complete applications for approvals, ~~as provided in this chapter.~~
- (3) To perform the administrative review of certificates of no change.
- (4) To perform the administrative review of demolition permits.
- ~~(5) To receive, review and process all complete nomination applications, as provided in this chapter~~
- ~~(6)~~ (5) To prepare or cause to be prepared designation studies, conservation district studies, and design guidelines.
- ~~(7)~~ (6) To identify historic resources.
- ~~(8)~~ (7) To establish and administer rules and regulations relating to the administration of this chapter, including application forms.
- ~~(9)~~ (8) To review and make recommendations on proposed amendments to this chapter.
- ~~(10)~~ (9) To maintain all records which are a part of the administration of this chapter.
- ~~(11)~~ (10) To take such other actions as reasonable and necessary for the administration and enforcement of this chapter. (2001-Or-029, § 1, 3-2-01)
- ~~(12)~~ (11) To receive, review and process all complete applications for conservation district studies.
- (12) To perform the administrative review of conservation certificates.

599.140. Director of inspections. The director of inspections shall have the power and duty to enforce this chapter by commencement of appropriate administrative and legal remedies, including but not limited to issuance of citation or written orders, or reference to the city attorney for issuance of a formal complaint. (2001-Or-029, § 1, 3-2-01)

599.150. City council. The city council shall have the following powers and duties in connection with the administration of this chapter:

- (1) To initiate and adopt amendments to this chapter.

- (2) To hear and decide appeals from decisions of the heritage preservation commission, ~~as authorized by this chapter.~~
- (3) To designate landmarks and historic districts, ~~as authorized by this chapter.~~
- (4) To approve historic variances, ~~as authorized by this chapter.~~
- (5) To approve the transfer of development rights, ~~as authorized by this chapter.~~
- (6) To take such other actions not delegated to other bodies that may be desirable and necessary to implement the provisions of this chapter. (2001-Or-029, § 1, 3-2-01)
- (7) To establish, amend, or repeal conservation districts.

ARTICLE III. GENERAL APPLICATION PROCEDURES

599.160. Application procedures. (a) *In general.* All applications shall be processed by the planning director, who shall make a preliminary investigation, in accordance with the procedures set forth in this chapter. Any person having a legal or equitable interest in a property may file an application on a form approved by the planning director, ~~as provided in this chapter.~~

- (b) *Determination of completeness of application.* The planning director shall review all applications and determine whether such applications are complete. Applications shall not be accepted as complete until the applicant has complied with all of the following:
- (1) Submittal of all required application forms relating to the application, including all additional applications, as required in sections 599.120.
 - (2) Submittal of all supporting information required by city ordinance, the planning director, the application forms, or by law, including a list of all owners of record of property located in whole or in part within three hundred fifty (350) feet of the boundaries of the subject property, as identified in the records of the Hennepin County Department of Property Taxation.
 - (3) Submittal of all applicable fees.
 - (4) Submittal of all applicable environmental reviews.
 - (5) Submittal of progress towards approval of all required state and federal reviews and permits where applicable. The planning director may, for good cause require application to provide written statement from the state or federal authority in whose review the work or permits are under consideration.
 - (6) For all preservation applications requiring a public hearing as set forth in this preservation ordinance, except appeals of decisions of the heritage preservation commission, a pre-application meeting with city staff during which the appropriate application types, procedures, requirements and

applicable preservation ordinance provisions are reviewed and explained.

- (7) For all preservation applications requiring a public hearing as set forth in this preservation ordinance, except appeals of decisions of the heritage preservation commission, submittal of evidence that notification of the application has been mailed or delivered to the ward council office and the neighborhood group(s) for the area in which the property is located. The neighborhood group(s) to be notified are those organizations that appear on the list maintained by the planning director for this purpose. The notification shall include the following information: a description of the project; the preservation approvals that the applicant is aware are needed for the project; the address of the property for which a preservation application is sought; and the applicant's name, address, telephone number, and e-mail address, if available. Where the property for which preservation approval is sought is located on a public street that acts as a boundary between two (2) neighborhoods, the above information shall also be provided to the neighborhood group(s) representing the adjacent area(s).
- (c) *Incomplete applications.* If after the application has been accepted, the planning director determines that an application is not complete, the planning director shall notify the applicant in writing within fifteen (15) business days of receipt, specifying any deficiencies of the application, including any additional information that must be supplied, and that no further action shall be taken by the city on the application until the deficiencies are corrected.
- (1) *Remedy of deficiencies.* If the applicant fails to correct the specified deficiencies within thirty (30) calendar days of the notification of deficiency, the application shall be deemed withdrawn and will be returned to the applicant.
 - (2) *Extensions of time.* Upon written request by the applicant, the planning director may, for good cause shown and without any notice or hearing, grant extensions of any time limit imposed on an applicant by these application procedures.
- (d) *Noncomplying properties.* No new application for the same property shall be accepted or deemed complete, if at the time of application such property is not in compliance with the requirements of this chapter or with the requirements of a previous approval granted pursuant to this chapter. Upon receipt of such an application, the planning director shall inspect the property and provide written notice to the applicant indicating the nature of the violation and the action necessary to correct it. This section shall not prevent an application to correct an existing condition that is not in compliance with the requirements of this chapter. (2001-Or-029, § 1, 3-2-01; 2009-Or-023, § 4, 3-27-2009)

599.170. Public hearings. (a) *Notice.* For all applications requiring a public hearing as set forth in this chapter, except appeals of decisions of the heritage preservation commission, notice of the public hearing shall be given in the following manner. The failure to give mailed notice to individual property owners, or defects in the notice, shall

not invalidate the proceedings, provided a bona fide attempt to comply with this section has been made.

- (1) *Newspaper of general circulation.* The planning director shall publish notice of the time, place and purpose of the public hearing at least once, not less than ten (10) calendar days before the hearing, in a newspaper of general circulation.
 - (2) *Affected property owners.* The planning director shall mail notice to all owners of record of property located in whole or in part within three hundred fifty (350) feet of the boundaries of the subject property not less than ten (10) calendar days before the hearing.
 - (3) *Registered neighborhood groups.* The planning director shall mail notice of time, place and purpose of the public hearing to the registered neighborhood group(s) for the area in which the subject property is located not less than ten (10) calendar days before the hearing.
 - (4) *Posted card.* Notice of time, place and purpose of such public hearing shall also be posted, with a card sign furnished by the planning director's office, on the four (4) corners of the site involved. Said sign shall be posted not later than ten (10) days prior to the date of the hearing.
- (b) *Procedures.* All hearings shall be open to the public. Any person may appear and testify at a hearing either in person or by duly appointed agent or attorney. The chair or acting chair may administer oaths. The concurring vote of the majority of the members of the commission at the meeting shall constitute final action of the commission on any matter before it. Upon the conclusion of the testimony in each hearing, the commission shall announce its decision or recommendation, or shall lay the matter over to a subsequent meeting. The commission shall keep minutes of its public hearings, and shall also keep records of its official actions. Decisions of the commission shall be filed in the office of the planning director. (2001-Or-029, § 1, 3-2-01; 2009-Or-023, § 5, 3-27-2009)

599.175. Fees. (a) *Established.* In recognition of the cost of services performed and work and materials furnished, persons who desire to avail themselves of the privileges granted them under the heritage preservation ordinance shall pay fees in the amount listed in Table 599-1, Fees.

Table 599.1 Fees

TABLE INSET:

Application Type	Fee (Dollars)
Appeal of the ruling of the heritage preservation commission	\$350.00

Appeal of the ruling of the zoning administrator, planning director, or other official involved in the administration or the enforcement of this preservation ordinance	350.00
Certificate of no change	0.00
Certificate of appropriateness <u>Alteration</u> alteration	
0--5,000 sf of lot area	250.00
5,001--9,999 sf of lot area	450.00
10,000--43,559 sf of lot area	750.00
43,560 sf of lot area or more	950.00
Certificate of appropriateness <u>n</u> New construction	
0--9,999 sf of lot area	450.00
10,000--43,559 sf of lot area	750.00
43,560 sf of lot area or more	950.00
<u>Conservation certificate – administrative review</u>	0.00
<u>Conservation certificate – public hearing review</u> <u>alteration</u>	
0--5,000 sf of lot area	250.00
5,001--9,999 sf of lot area	450.00
10,000--43,559 sf of lot area	750.00
43,560 sf of lot area or more	950.00
<u>Conservation certificate – public hearing review</u> <u>new construction</u>	
0--9,999 sf of lot area	450.00
10,000--43,559 sf of lot area	750.00
43,560 sf of lot area or more	950.00
<u>Conservation district plan</u>	350.00
<u>Demolition of historic resource</u>	350.00
<u>Historic review letter</u>	150.00
<u>Historic variance</u>	250.00
<u>Transfer of development rights</u>	350.00

- (b) *Postage and publication.* For applications requiring notice of a public hearing to affected property owners, the applicant shall pay the cost of first class postage based on the number of property owners to be notified. In addition, for applications requiring publication in a newspaper of general circulation, the applicant shall pay a fee of twenty-five dollars (\$25.00).
- (c) *Continuance.* After notification of a public hearing has taken place, a request by the applicant to continue an application to a subsequent public hearing of the heritage preservation commission shall be charged a fee totaling one hundred fifty

dollars (\$150.00) when such request is granted. The fee shall be paid prior to the subsequent public hearing.

- (d) *Forms and payment of fees.* The zoning administrator shall provide applicants with forms, designating therein the amount of fees to be paid. All fees shall be payable to the city finance officer.
- (e) *Refund of fees.*
 - (1) *Incomplete applications.* If an applicant fails to provide a complete application and the application is withdrawn by the applicant or is deemed withdrawn and returned pursuant to section 599.160(b), the city shall retain the first one hundred dollars (\$100.00) of the total fees paid for the project. Any sum paid over the amount to be retained shall be refunded.
 - (2) *Complete applications.* If an applicant withdraws a complete application before the scheduled public hearing, or in the case of an application for administrative review, before the application is decided by the planning director or zoning administrator, the city shall retain the first one hundred dollars (\$100.00) of the total fees paid for the project, or such proportion of the fee paid as determined by the costs to the city to process the application up to the time it was withdrawn compared to the costs to completely process the application, whichever is greater. Any sum paid over the amount to be retained shall be refunded. If the scheduled public hearing is held, or if the application is decided by the planning director or the zoning administrator, no fees shall be refunded, whether or not the application is withdrawn, approved or denied.
 - (3) *Exception.* The city shall refund the total amount of the fees paid for any application that was accepted by the planning director or zoning administrator in error.

(2006-Or-022, § 1, 2-24-06; 2009-Or-023, § 6, 3-27-2009)

ARTICLE IV. APPEALS

599.180. Appeals of decisions of the planning director. All findings and decisions of the planning director, director of inspections or other official involved in the administration or the enforcement of these heritage preservation regulations shall be final subject to appeal to the heritage preservation commission, except that appeal of a decision of the director of inspections involving a violation of Title 5 of the Minneapolis Code of Ordinances, Building Code, or Title 12 of the Minneapolis Code of Ordinances, Housing, shall be as provided in the written order. Appeals may be initiated by any affected person by filing the appeal with the planning director on a form approved by the planning director and shall be accompanied by all required supporting information, as specified in section 599.160, and fees as specified in section 599.175. All appeals shall be filed within ten (10) calendar days of the date of the decision. Timely filing of an appeal shall stay all proceedings in the action appealed. No action shall be taken by any person to alter the property in any manner until after a final decision has been made by the

heritage preservation commission, unless the planning director certifies to the commission, with service of a copy to the applicant, that a stay would cause imminent peril to life or property, in which case the proceedings shall not be stayed. The commission shall hold a public hearing on each complete application for an appeal as provided in section 599.170. All findings and decisions of the commission concerning appeals shall be final, subject to appeal to the city council as specified in section 599.190. (2001-Or-029, § 1, 3-2-01; 2009-Or-023, § 7, 3-27-2009)

599.190. Appeals of decisions of the heritage preservation commission. All decisions of the heritage preservation commission, except decisions to commence designation studies, designations, historic variances and transfers of development rights, shall be final subject to appeal to the city council and the right of subsequent judicial review. Appeals may be initiated by any affected person by filing the appeal with the planning director on a form approved by the planning director and shall be accompanied by all required supporting information, as specified in section 599.160, and fees as specified in section 599.175. All appeals shall be filed within ten (10) calendar days of the date of decision by the commission. No action shall be taken by any person to alter the property in any manner until expiration of the ten (10) day appeal period and, if an appeal is filed pursuant to this section, until after a final decision has been made by the city council. Not less than ten (10) days before the public hearing to be held by ~~the zoning and planning committee~~ of the city council to consider the appeal, the planning director shall mail notice of the hearing to the property owner and the surrounding property owners who were sent notice of the public hearing before the commission. The failure to give mailed notice to individual property owners or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply with this section has been made. (2001-Or-029, § 1, 3-2-01; 2009-Or-023, § 8, 3-27-2009)

ARTICLE V. DESIGNATION

599.200. Purpose. This article is established to promote the preservation of historic resources by providing the commission with authority to recommend the designation of landmarks and historic districts and to adopt design guidelines for designated properties. (2001-Or-029, § 1, 3-2-01)

599.210. Designation criteria. The following criteria shall be considered in determining whether a property is worthy of designation as a landmark or historic district because of its historical, cultural, architectural, archaeological or engineering significance:

- (1) The property is associated with significant events or with periods that exemplify broad patterns of cultural, political, economic or social history.
- (2) The property is associated with the lives of significant persons or groups.
- (3) The property contains or is associated with distinctive elements of city or neighborhood identity.

- (4) The property embodies the distinctive characteristics of an architectural or engineering type or style, or method of construction.
- (5) The property exemplifies a landscape design or development pattern distinguished by innovation, rarity, uniqueness or quality of design or detail.
- (6) The property exemplifies works of master builders, engineers, designers, artists, craftsmen or architects.
- (7) The property has yielded, or may be likely to yield, information important in prehistory or history. (2001-Or-029, § 1, 3-2-01; 2009-Or-023, § 9, 3-27-2009)

599.220. Nomination of property. Nomination of a property to be considered for designation as a landmark or historic district shall be submitted to the planning director on a nomination application form approved by the planning director and shall be accompanied by all required supporting information. A nomination may be made by any of the following:

- (1) A member of the heritage preservation commission.
- (2) A member of the city council.
- (3) The mayor.
- (4) The planning director.
- (5) Any person with a legal or equitable interest in the subject property. (2001-Or-029, § 1, 3-2-01)

599.230. Commission decision on nomination. The commission shall review all complete nomination applications. If the commission determines that a nominated property appears to meet at least one (1) of the criteria for designation contained in section 599.210, the commission may direct the planning director to prepare or cause to be prepared a designation study of the property. In cases where an application for demolition is initiated by the property owner, the planning director may determine that the property owner bears the full financial responsibility of conducting the designation study. In all cases, the planning director shall define the scope of services for a designation study, review qualifications of agent conducting study and make a determination of what constitutes a final submission upon completion. (2001-Or-029, § 1, 3-2-01; 2009-Or-023, § 10, 3-27-2009)

599.240. Interim protection. (a) *Purpose.* Interim protection is established to protect a nominated property from destruction or inappropriate alteration during the designation process.

(b) *Effective date.* Interim protection shall be in effect from the date of the

commission's decision to commence a designation study of a nominated property until the city council makes a decision regarding the designation of the property, or for ~~twelve (12) months~~ one (1) year, whichever comes first. Interim protection may be extended for such additional periods as the commission may deem appropriate and necessary to protect the designation process, not exceeding a total ~~additional~~ period of eighteen (18) months. The commission shall hold a public hearing on a proposed extension of interim protection as provided in section 599.170.

- (c) *Scope of restrictions.* During the interim protection period, no alteration or minor alteration of a nominated property shall be allowed except where authorized by a certificate of appropriateness or a certificate of no change, ~~as provided in this chapter.~~ (2001-Or-029, § 1, 3-2-01)

599.250. State historic preservation office review. ~~The planning director shall submit all proposed designations to the state historic preservation officer for review and comment within sixty (60) days.~~ The planning director shall submit all proposed designations to the state historic preservation officer for review and comment. The state historic preservation officer shall have sixty (60) days from said date of submittal to provide comments to the planning director. (2001-Or-029, § 1, 3-2-01)

599.260. City planning commission review. The planning director shall submit all proposed designations to the city planning commission for review and comment on the proposal within thirty (30) days. In its review, the city planning commission shall consider but not be limited to the following factors:

- (1) The relationship of the proposed designation to the city's comprehensive plan.
- (2) The effect of the proposed designation on the surrounding area.
- (3) The consistency of the proposed designation with applicable development plans or development objectives adopted by the city council. (2001-Or-029, § 1, 3-2-01)

599.270. Designation hearing. Following completion of the designation study the commission shall hold a public hearing to consider the proposed designation, as provided in section 599.170. ~~Any person having a legal or equitable interest in a nominated property shall be allowed reasonable opportunity to give testimony or present evidence concerning the proposed designation.~~ (2001-Or-029, § 1, 3-2-01)

599.280. Commission recommendation. Following the public hearing, the commission shall make findings with respect to the proposed designation and shall submit the same together with its recommendation to ~~the zoning and planning committee~~ of the city council. In making its findings and recommendation, the commission shall consider the designation criteria contained in section 599.210, the information contained in the designation study, the state historic preservation officer's comments, the city

planning commission's comments, the planning director's report and all testimony and evidence received at the public hearing relating to the designation. (2001-Or-029, § 1, 3-2-01)

599.290. City council decision. The city council shall make the final decision on all designations. (2001-Or-029, § 1, 3-2-01)

599.300. Design guidelines. The commission shall adopt design guidelines for landmarks and historic districts. ~~Prior to adoption, the planning director shall submit all proposed design guidelines to the state historic preservation officer for review and comment within sixty (60) days.~~ Prior to adoption, the planning director shall submit all proposed design guidelines to the state historic preservation officer for review and comment. The state historic preservation officer shall have sixty (60) days from said date of submittal to provide comments to the planning director.(2001-Or-029, § 1, 3-2-01)

ARTICLE VI. CERTIFICATE OF APPROPRIATENESS

599.310. Purpose. Certificates of appropriateness are established to protect landmarks, historic districts and nominated properties under interim protection by providing the commission with authority to review and approve or deny all proposed alterations to a landmark, property in an historic district or nominated property under interim protection. (2001-Or-029, § 1, 3-2-01)

599.320. Certificate of appropriateness required. Any alteration of a landmark, property in an historic district or nominated property under interim protection shall be prohibited except where authorized by a certificate of appropriateness approved by the commission. (2001-Or-029, § 1, 3-2-01)

599.330. Application for certificate of appropriateness. An application for a certificate of appropriateness shall be filed on a form approved by the planning director and shall be accompanied by all required supporting information, as specified in section 599.160. (2001-Or-029, § 1, 3-2-01)

599.340. Hearing on application for certificate of appropriateness. The commission shall hold a public hearing on each complete application for a certificate of appropriateness as provided in section 599.170. The commission may approve, approve with conditions, or deny an application for certificate of appropriateness. (2001-Or-029, § 1, 3-2-01)

599.350. Required findings for certificate of appropriateness. (a) *In general.* Before approving a certificate of appropriateness, and based upon the evidence presented in each application submitted, the commission shall make findings based upon, but not limited to, the following:

- (1) The alteration is compatible with and continues to support the criteria of significance and period of significance for which the landmark or historic district was designated.
 - (2) The alteration is compatible with and supports the interior and/or exterior designation in which the property was designated.
 - (3) The alteration is compatible with and will ensure continued integrity of the landmark or historic district for which the district was designated.
 - (4) The alteration will not materially impair the significance and integrity of the landmark, historic district or nominated property under interim protection as evidenced by the consistency of alterations with the applicable design guidelines adopted by the commission.
 - (5) The alteration will not materially impair the significance and integrity of the landmark, historic district or nominated property under interim protection as evidenced by the consistency of alterations with the recommendations contained in The Secretary of the Interior's Standards for the Treatment of Historic Properties.
 - (6) The certificate of appropriateness conforms to all applicable regulations of this preservation ordinance and is consistent with the applicable policies of the comprehensive plan and applicable preservation policies in small area plans adopted by the city council.
- (b) *Destruction of any property.* Before approving a certificate of appropriateness that involves the destruction, in whole or in part, of any landmark, property in an historic district or nominated property under interim protection, the commission shall make findings that the destruction is necessary to correct an unsafe or dangerous condition on the property, or that there are no reasonable alternatives to the destruction. In determining whether reasonable alternatives exist, the commission shall consider, but not be limited to, the significance of the property, the integrity of the property and the economic value or usefulness of the existing structure, including its current use, costs of renovation and feasible alternative uses. The commission may delay a final decision for a reasonable period of time to allow parties interested in preserving the property a reasonable opportunity to act to protect it.
- (c) *Adequate consideration of related documents and regulations.* Before approving a certificate of appropriateness, and based upon the evidence presented in each application submitted, the commission shall make findings that alterations are proposed in a manner that demonstrates that the applicant has made adequate consideration of the following documents and regulations:
- (1) The description and statement of significance in the original nomination upon which designation of the landmark or historic district was

based.

- (2) Where applicable, Title 20 of the Minneapolis Code of Ordinances, Zoning Code, Chapter 530, Site Plan Review.
 - (3) The typology of treatments delineated in the Secretary of the Interior's Standards for the Treatment of Historic Properties and the associated guidelines for preserving, rehabilitating, reconstructing, and restoring historic buildings.
- (d) *Additional findings for alterations within historic districts.* Before approving a certificate of appropriateness that involves alterations to a property within an historic district, the commission shall make findings based upon, but not limited to, the following:
- (1) The alteration is compatible with and will ensure continued significance and integrity of all contributing properties in the historic district based on the period of significance for which the district was designated.
 - (2) Granting the certificate of appropriateness will be in keeping with the spirit and intent of the ordinance and will not negatively alter the essential character of the historic district.
 - (3) The certificate of appropriateness will not be injurious to the significance and integrity of other resources in the historic district and will not impede the normal and orderly preservation of surrounding resources as allowed by regulations in the preservation ordinance. (2001-Or-029, § 1, 3-2-01; 2009-Or-023, § 11, 3-27-2009)

599.360. Certificate of appropriateness conditions and guarantees. (a) *In general.* Following commission approval of an application, the applicant shall receive a signed certificate of appropriateness and approved plans stamped by the planning director. The applicant shall produce such certificate of appropriateness and plans to the inspections department before a building permit or demolition permit may be issued. The signed certificate of appropriateness and stamped plans shall be available for inspection on the construction-site together with any inspections department permit.

- (b) *Mitigation plan.* The commission may require a mitigation plan as a condition of any approval for demolition or relocation of a landmark, property in an historic district or nominated property under interim protection. Such plan may include the documentation of the property by measured drawings, photographic recording, historical research or other means appropriate to the significance of the property. Such plan also may include the salvage and preservation of specified building materials, architectural details, ornaments, fixtures and similar items for use in restoration elsewhere.
- (c) *Additional conditions and guarantees.* The commission may impose such conditions on any certificate of appropriateness and require such guarantees as it deems reasonable and necessary to protect the public interest and to ensure compliance with the standards and purposes of this chapter. (2001-Or-029, § 1,

3-2-01)

599.370. Changes in approved certificate of appropriateness. (a) *Minor changes.* Minor changes to an approved certificate of appropriateness may be authorized by the planning director where it is determined by the planning director that the changes are not significant and are consistent with the approval made by the commission.

(b) *Other changes.* Changes to an approved certificate of appropriateness other than changes determined by the planning director to be minor shall require amendment to the certificate by the commission. The requirements for application and approval of a certificate amendment shall be the same as the requirements for original approval. (2001-Or-029, § 1, 3-2-01)

ARTICLE VII. CERTIFICATE OF NO CHANGE

599.380. Purpose. Certificates of no change are established to protect landmarks, historic districts and nominated properties under interim protection by providing the planning director with authority to review and approve or deny all proposed minor alterations to a landmark, property in an historic district or nominated property under interim protection. (2001-Or-029, § 1, 3-2-01)

599.390. Certificate of no change required. Any minor alteration of a landmark, property in an historic district or nominated property under interim protection shall be prohibited except where authorized by a certificate of no change approved by the planning director. (2001-Or-029, § 1, 3-2-01)

599.400. Application for certificate of no change. An application for a certificate of no change shall be filed on a form approved by the planning director and shall be accompanied by all required supporting information, as specified in section 599.160. (2001-Or-029, § 1, 3-2-01)

599.410. Decision on application for certificate of no change. The planning director may approve, approve with conditions, or deny an application for certificate of no change. (2001-Or-029, § 1, 3-2-01)

599.420. Required findings for certificate of no change. (a) *In general.* Before approving a certificate of no change, and based upon the evidence presented in each application submitted, the planning director shall make findings based upon, but not limited to, the following:

- (1) The minor alteration is compatible with and continues to support the criteria of significance and period of significance for which the landmark or historic district was designated.
- (2) The minor alteration is compatible with and supports the interior and/or exterior designation in which the property was designated.

- (3) The minor alteration is compatible with and will ensure continued integrity of the landmark or historic district for which the district was designated.
 - (4) The minor alteration will not materially impair the significance and integrity of the landmark, historic district or nominated property under interim protection as evidenced by the consistency of alterations with the applicable design guidelines adopted by the commission.
 - (5) The minor alteration will not materially impair the significance and integrity of the landmark, historic district or nominated property under interim protection as evidenced by the consistency of alterations with the recommendations contained in The Secretary of the Interior's Standards for the Treatment of Historic Properties.
 - (6) The certificate of ~~appropriateness~~ no change conforms to all applicable regulations of this preservation ordinance and is consistent with the applicable policies of the comprehensive plan.
- (b) *Additional findings for alterations within historic districts.* Before approving a certificate of ~~appropriateness~~ no change that involves alterations to a property within an historic district, the commission shall make findings based upon, but not limited to, the following:
- (1) The minor alteration is compatible with and will ensure continued significance and integrity of all contributing properties in the historic district based on the period of significance for which the district was designated.
 - (2) Granting the certificate of no change will be in keeping with the spirit and intent of the ordinance and will not negatively alter the essential character of the historic district.
 - (3) The certificate of no change will not be injurious to the significance and integrity of other resources in the historic district and will not impede the normal and orderly preservation of surrounding resources as allowed by regulations in the preservation ordinance. (2001-Or-029, § 1, 3-2-01; 2009-Or-023, § 12, 3-27-2009)

599.430. Certificate of no change conditions and guarantees. (a) *In general.* After planning director approval, the applicant shall receive a signed certificate of no change and approved plans stamped by the planning director. The applicant shall produce such certificate of no change and plans to the inspections department before a building permit may be issued. The signed certificate of no change and stamped plans shall be available for inspection on the construction-site together with any inspections department permit.

- (b) *Additional conditions and guarantees.* The planning director may impose such conditions on any certificate of no change and require such guarantees as deemed

reasonable and necessary to protect the public interest and to ensure compliance with the standards and purposes of this chapter. (2001-Or-029, § 1, 3-2-01)

ARTICLE VIII. HISTORIC RESOURCES

599.440. Purpose. This article is established to protect historic resources from destruction by providing the planning director with authority to identify historic resources and to review and approve or deny all proposed demolitions of property. (2001-Or-029, § 1, 3-2-01)

599.450. Identification of historic resources. The planning director shall identify properties that are believed to meet at least one of the criteria for designation contained in section 599.210, but that have not been designated. In determining whether a property is an historic resource, the planning director may refer to building permits and other property information regularly maintained by the director of inspections, property inventories prepared by or directed to be prepared by the planning director, observations of the property by the planning director or any other source of information reasonably believed to be relevant to such determination. (2001-Or-029, § 1, 3-2-01)

599.460. Review of demolitions. The planning director shall review all building permit applications that meet the definition ~~for~~of demolition to determine whether the affected property is an historic resource. If the planning director determines that the property is not an historic resource, the building permit shall be approved. If the planning director determines that the property is an historic resource, the building permit shall not be issued without review and approval by the commission following a public hearing as provided in section 599.170. (2001-Or-029, § 1, 3-2-01; 2009-Or-023, § 13, 3-27-2009)

599.470. Application for demolition of historic resource. An application for demolition of an historic resource shall be filed on a form approved by the planning director and shall be accompanied by all required supporting information, as specified in section 599.160. (2001-Or-029, § 1, 3-2-01)

599.480. Commission decision. (a) *In general.* If the commission determines that the property is not an historic resource, the commission shall approve the demolition permit. If the commission determines that the property is an historic resource, the commission shall deny the demolition permit and direct the planning director to prepare or cause to be prepared a designation study of the property, as provided in section 599.230, or shall approve the demolition permit as provided in this section.

(b) *Destruction of historic resource.* Before approving the demolition of a property determined to be an historic resource, the commission shall make findings that the demolition is necessary to correct an unsafe or dangerous condition on the property, or that there are no reasonable alternatives to the demolition. In determining whether reasonable alternatives exist, the commission shall consider, but not be limited to, the significance of the property, the integrity of the property

and the economic value or usefulness of the existing structure, including its current use, costs of renovation and feasible alternative uses. The commission may delay a final decision for up to one hundred eighty (180) days to allow parties interested in preserving the historic resource a reasonable opportunity to act to protect it.

- (c) *Mitigation plan.* The commission may require a mitigation plan as a condition of any approval for demolition of an historic resource. Such plan may include the documentation of the property by measured drawings, photographic recording, historical research or other means appropriate to the significance of the property. Such plan also may include the salvage and preservation of specified building materials, architectural details, ornaments, fixtures and similar items for use in restoration elsewhere.
- (d) *Demolition delay.* The commission may stay the release of the building, wrecking or demolition permit for up to one hundred eighty (180) days as a condition of approval for a demolition of an historic resource if the resource has been found to contribute to a potential historic district to allow parties interested in preserving the historic resource a reasonable opportunity to act to protect it. The release of the permit may be allowed for emergency exception as required in section 599.50(b). (2001-Or-029, § 1, 3-2-01; 2009-Or-023, § 14, 3-27-2009)

ARTICLE IX. HISTORIC VARIANCE

599.490. Purpose. This article is established to encourage the preservation and reuse of landmarks and properties in historic districts by providing the commission with authority to recommend departure from the literal requirements of any of the applicable zoning regulations. (2001-Or-029, § 1, 3-2-01)

599.500. Application for historic variance. An application for historic variance shall be filed on a form approved by the planning director and shall be accompanied by all required supporting information, as specified in section 599.160. (2001-Or-029, § 1, 3-2-01)

599.510. Hearing on application for historic variance. The commission shall hold a public hearing on each complete application for historic variance as provided in section 599.170. Following the public hearing, the commission shall make findings with respect to the proposed historic variance and shall submit the same together with its recommendation to ~~the zoning and planning committee~~ of the city council. (2001-Or-029, § 1, 3-2-01)

599.520. Required findings for historic variance. Before recommending approval of a historic variance, the commission shall make findings that the variance is compatible with the preservation of the property and with other properties in the area, and that the variance is necessary to alleviate undue hardship due to special conditions or circumstances unique to the property and not created by the applicant. (2001-Or-029, § 1, 3-2-01)

599.530. Historic variance conditions and guarantees. The commission may impose such conditions on any historic variance and require such guarantees as it deems reasonable and necessary to protect the public interest and to ensure compliance with the standards and purposes of this chapter. (2001-Or-029, § 1, 3-2-01)

599.540. City council decision. The city council shall make the final decision on all historic variances. (2001-Or-029, § 1, 3-2-01)

599.550. Changes in approved historic variance. Changes to an approved historic variance shall require a new application. The requirements for application and approval of a change to a historic variance shall be the same as the requirements for original approval. (2001-Or-029, § 1, 3-2-01)

ARTICLE X. TRANSFER OF DEVELOPMENT RIGHTS

599.560. Purpose. This article is established to encourage the preservation and rehabilitation of landmarks and properties in historic districts by providing the commission with authority to recommend the transfer of undeveloped floor area from sites containing landmarks or located within an historic district, to other sites. (2001-Or-029, § 1, 3-2-01)

599.570. Eligible areas. The transfer of development rights shall be limited to transfers from sending sites located in zoning districts other than the downtown districts, to receiving sites located in the same historic district as the sending site or within one-fourth (1/4) mile of the sending site, whichever is greater. However, nothing in this article shall be construed to provide a property owner with any property right or other legal right to compel the city to approve an application for transfer of development rights. (2001-Or-029, § 1, 3-2-01)

599.580. Application for transfer of development rights. An application for transfer of development rights shall be filed on a form approved by the planning director and shall be accompanied by all required supporting information, as specified in section 599.160. (2001-Or-029, § 1, 3-2-01)

599.590. Hearing on application for transfer of development rights. The commission shall hold a public hearing on each complete application for transfer of development rights as provided in section 599.170. Following the public hearing, the commission shall make findings with respect to the proposed transfer of development rights and shall submit the same together with its recommendation to ~~the zoning and planning committee~~ of the city council. (2001-Or-029, § 1, 3-2-01)

599.600. Required findings for transfer of development rights. Before recommending approval of a transfer of development rights, the commission shall make findings that the transfer is compatible with other properties in the area, and that the transfer is necessary to alleviate financial hardship due to restrictions placed on the use of

the sending site by the commission. (2001-Or-029, § 1, 3-2-01)

599.610. Transfer of development rights conditions and guarantees. (a) *In general.* Any approval of an application for transfer of development rights shall be subject to the following conditions:

- (1) The maximum amount of undeveloped floor area that may be transferred from the sending site shall be the difference between the gross floor area of development on the sending site and the maximum gross floor area permitted by the zoning district regulations.
 - (2) The development potential of the sending site shall be reduced by the amount of undeveloped floor area transferred for the life of the principal structure on the receiving site whose construction is made possible by the transfer.
 - (3) The transfer of development rights shall not result in the destruction of a landmark or historic resource on the receiving site.
 - (4) The approval of the transfer of development rights shall be filed by the applicant with the Office of the Hennepin County Recorder or Registrar of Titles in the form of a conservation easement or similar restriction acceptable to the city which shall specify the amount of undeveloped floor area transferred to the receiving site and the reduction in the development rights of the sending site.
 - (5) No building permit or other approval for the construction or establishment of transferred development rights on the receiving site shall be granted by the city until the structure on the sending site has been rehabilitated consistent with the applicable design guidelines adopted by the commission, or if design guidelines have not been adopted, consistent with the recommendations contained in The Secretary of the Interior's Standards for Rehabilitation, if necessary, or until a plan for such rehabilitation has been submitted to and approved by the commission.
- (b) *Additional conditions and guarantees.* The commission may impose such conditions on any transfer of development rights and require such guarantees as it deems reasonable and necessary to protect the public interest and to ensure compliance with the standards and purposes of this chapter. (2001-Or-029, § 1, 3-2-01)

599.620. City council decision. The city council shall make the final decision on all transfers of development rights. (2001-Or-029, § 1, 3-2-01)

599.630. Changes in approved transfer of development rights. Changes to an approved transfer of development rights shall require a new application. The requirements for application and approval of a change to a transfer of development rights shall be the same as the requirements for original approval. (2001-Or-029, § 1, 3-2-01)

ARTICLE XI. MAINTENANCE

599.640. Purpose. This article is established to ensure that landmarks, historic districts, conservation districts, and nominated properties under interim protection are properly maintained and protected against deterioration. (2001-Or-029, § 1, 3-2-01)

599.650. Duty to maintain. All landmarks, properties in historic districts, properties in conservation districts, nominated properties under interim protection and historic resources shall be kept in a state of maintenance and repair as required by Title 5 of the Minneapolis Code of Ordinances, Building Code, and Title 12 of the Minneapolis Code of Ordinances, Housing, and with all other applicable regulations. (2001-Or-029, § 1, 3-2-01)

599.660. Prevention of deterioration. No person with a legal or equitable interest in a landmark, property in an historic district, property in a conservation district, or nominated property under interim protection, whether occupied or not, shall permit the property to fall into a serious state of disrepair or to remain in a serious state of disrepair so as to materially impair the integrity of the property or historic district. (2001-Or-029, § 1, 3-2-01)

ARTICLE XII. ENFORCEMENT

599.670. Purpose. This article is established to ensure that the requirements of this chapter are enforced in accordance with the procedures set forth herein. (2001-Or-029, § 1, 3-2-01)

599.680. Complaints regarding violations. The director of inspections shall have the authority to 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 is warranted in accordance with the procedures set forth herein and with all other applicable regulations. (2001-Or-029, § 1, 3-2-01)

599.690. Procedures upon discovery of violations. (a) *In general.* The director of inspections, in consultation with the planning director, shall provide a written notice to the property owner or to any person responsible for such violation, identifying the property in question, indicating the nature of the violation, and ordering the action necessary to correct it, including a reasonable time period to remedy the violation. Where the violation involves work being done contrary to the provisions of this chapter, the director of inspections may order the work stopped. No further work shall be undertaken while a stop-work order is in effect.

(b) *Appeals to commission.* Where the violation involves a condition of approval granted pursuant to this chapter, or an unauthorized alteration or minor alteration of a landmark, property in an historic district, property in a conservation district, nominated property under interim protection or historic resource, or other provision

of this chapter except a violation of Title 5 of the Minneapolis Code of Ordinances, Building Code, or Title 12 of the Minneapolis Code of Ordinances, Housing, the written notice shall advise that the director of inspection's order may be appealed to the commission in accordance with the provisions of section 599.180. (2001-Or-029, § 1, 3-2-01)

599.700. Penalties and remedies for violations. (a) Violations of the provisions of this chapter or the conditions of any approval granted thereunder shall be punishable as stated in section 1.30 of the Minneapolis Code of Ordinances.

- (b) This chapter may also be enforced by injunction, abatement or any other appropriate remedy in any court of competent jurisdiction.
- (c) Each day that any violation continues after notification by the director of inspections that such violation exists shall be considered a separate offense for purpose of the penalties and remedies specified in this section.
- (d) Any one, all, or any combination of the foregoing penalties and remedies may be used to enforce this chapter. (2001-Or-029, § 1, 3-2-01)

ARTICLE XIII. CONSERVATION DISTRICTS

599.710. Purpose. This article is established to perpetuate and proliferate the visual character evident in an area's notable architecture, development pattern, scale, engineering, or landscape design by regulating changes to those attributes and adopting design guidelines for properties within a defined area. As part of the city's comprehensive program of historic preservation, it is the intent of this ordinance to promote the use and conservation of notable properties for the education, inspiration, pleasure, and enrichment of the citizens of this city. Conservation districts are designed to not only maintain but also expand the roster of buildings, structures, sites, and objects that contribute to the visual character of the district. The value of existing and proposed buildings in conservation districts is measured by the extent to which they embody the conservation district's notable visual character.

599.720. Establishment criteria. The following criteria shall be considered in determining whether properties are eligible to be in a conservation district:

- (1) The district is contiguous and:
 - (a) includes at least one complete block face with two or more principal buildings; or
 - (b) is centered upon the intersection of two or more streets, with all corner lots included in the district.
- (2) The majority of properties embody notable attributes common to the district, including the distinctive characteristics of an architectural or engineering type or style, or method of construction; a landscape design or development pattern distinguished by innovation, rarity, uniqueness or quality of design or detail; or scale- that creates a cohesive identifiable setting.

599.730. Initiation of conservation district plan. Application for initiation of a conservation district plan shall be submitted on an application form approved by the planning director and shall be accompanied by evidence documenting the consent of owners who represent one-third (1/3) or more of all tax parcels, excluding streets and alleys, within the proposed conservation district boundary. Complete applications will be acted upon in the order that they are received, with no more than one application per city sector (north, east, downtown, south, and southwest) processed simultaneously.

599.740. Design guidelines. (a) In general. After receipt of a complete conservation district plan application, conservation district design guidelines shall be drafted by the planning director with the active participation of property owners in the proposed district. Design guidelines shall not be adopted or applied so as to prohibit uses allowed by the zoning code. Design guidelines regulating building bulk may be more restrictive than the zoning code when based upon the notable attributes, as identified in the conservation district's plan. Design guidelines shall be limited to regulating some or all exterior elements solely for the purpose of perpetuating and proliferating the district's notable attributes, as identified in the district's plan. Conservation district design guidelines shall clearly identify all changes requiring review for compliance with this ordinance. Design guidelines may establish that a public hearing is required for the construction of principal and accessory structures or the addition or removal of floor area to existing principal or accessory structures. All other changes shall be reviewed administratively unless those changes require a public hearing review pursuant to the Minneapolis Code of Ordinances.

(b) Owner consent. Prior to heritage preservation commission adoption, but not amendment, guidelines shall be submitted to the planning director, accompanied by evidence documenting the consent of owners who represent two-thirds (2/3) or more of all tax parcels, excluding streets and alleys, within the proposed conservation district boundary. No owner consent is required for Heritage Preservation Commission amendment of conservation district design guidelines. Evidence of two-thirds (2/3) consent shall be obtained within one (1) year of the date the planning director initiates work upon a conservation district plan application. The planning director, upon written request, may for good cause shown grant up to a six (6) month extension to this time limit.

599.750. State historic preservation office review. The planning director shall submit all proposed conservation district establishments, amendments, repeals, and design guidelines to the state historic preservation officer for review and comment. The state historic preservation officer shall have sixty (60) days from said date of submittal to provide comments to the planning director.

599.760. City planning commission review. The planning director shall submit all proposed conservation district establishments, amendments, repeals, and design guidelines to the city planning commission. City planning commission shall have thirty

(30) days from said date of submittal to provide comments to the planning director. In its review, the city planning commission shall consider but not be limited to the following factors:

- (1) The district's eligibility for establishment, as evidenced by its consistency with the establishment criteria.
- (2) The relationship of the proposed conservation district to the city's comprehensive plan.
- (3) The effect of the proposed conservation district on the surrounding area.
- (4) The consistency of the proposed conservation district with applicable development plans or development objectives adopted by the city council.

599.770. Heritage preservation commission review. Following acceptance of a complete plan, the heritage preservation commission shall hold a public hearing to consider the proposed conservation district establishment, amendment, or repeal as provided in section 599.170.

599.780. Commission recommendation. Following the public hearing, the heritage preservation commission shall make findings with respect to the proposed conservation district establishment, amendment, or repeal and shall submit the same together with its recommendation to the city council. In making its findings and recommendation, the commission shall consider the establishment criteria contained in section 599.720, the information contained in the plan, the state historic preservation officer's comments, the city planning commission's comments, the planning director's report, and all testimony and evidence received at the public hearing relating to the conservation district establishment, amendment, or repeal.

599.790. City council decision. The city council shall make the final decision on the establishment, amendment, or repeal of all conservation districts.

599.800. Adoption. The heritage preservation commission shall adopt conservation district design guidelines concurrent with the review of conservation district studies. Amendments to the design guidelines may be adopted independently, without consideration of a new plan, after the district is established.

599.810. Initiation of conservation district amendment or repeal. A conservation district amendment or repeal may be initiated by the submittal of evidence documenting the consent of owners who represent two-thirds (2/3) or more of all tax parcels, excluding streets and alleys, within the conservation district boundary.

599.820. Conservation certificates. (a) In general. A conservation certificate allows the city to review proposed exterior changes subject to conservation district design guidelines.

(b) Application for conservation certificate. An application for a conservation certificate shall be filed on a form approved by the planning director and shall be accompanied by all required supporting information, as specified in section 599.160.

(c) Public hearing review conservation certificates. The commission shall hold a public hearing on each complete application for a public hearing review conservation certificate as provided in section 599.170. The commission may approve, approve with conditions, or deny an application for a conservation certificate.

(d) Administrative review conservation certificates. The planning director may approve, approve with conditions, or deny an application for an administrative review conservation certificate.

599.830. Required findings for conservation certificates. (a) In general. Before approving a conservation certificate, and based upon the evidence presented in each application submitted, the planning director or heritage preservation commission shall make findings based upon, but not limited to, the following, in addition to any other review requirements mandated by the Minneapolis Code of Ordinances:

(1) The change will not materially impair the visual character of the conservation district as evidenced by the consistency of the proposal with the applicable design guidelines adopted by the commission.

(2) Granting the conservation certificate will be in keeping with the spirit and intent of the ordinance.

(b) Demolition of any property. Before approving a conservation certificate that involves the demolition of any property in a conservation district, the planning director or heritage preservation commission shall consider the consistency of any proposed new construction onsite with the design guidelines for the conservation district adopted by the commission, in addition to any other review requirements mandated by the Minneapolis Code of Ordinances.