



Report for City Council Committee from the Department of Community Planning & Economic Development – Planning Division

Date: February 12, 2009

To: Council Member Gary Schiff, Chair, Zoning and Planning Committee
Members of the Committee

Referral to: Zoning and Planning Committee

Subject: Revisions to Title 23, Chapter 599 Preservation – concerning matters related to Historic Resources, Review of Demolitions, and other “housekeeping” clarifications

Recommendation: Staff recommends that the City Council adopt the findings and **approve** the preservation ordinance amendments.

The Heritage Preservation Commission will hear the proposed preservation ordinances amendments on February 10, 2009. Their actions will be available at the February 12, 2009 Zoning & Planning Committee meeting.

Previous Directives: None

Prepared or Submitted by: Brian Schaffer, Senior City Planner, 612-673-2670

Approved by: Jack Byers, Planning Supervisor, 612-673-2634

Presenters in Committee: Brian Schaffer, Senior City Planner

Financial Impact (Check those that apply)

- No financial impact (If checked, go directly to Background/Supporting Information).
- Action requires an appropriation increase to the _____ Capital Budget or _____ Operating Budget.
- Action provides increased revenue for appropriation increase.
- Action requires use of contingency or reserves.
- Business Plan: _____ Action is within the plan. _____ Action requires a change to plan.
- Other financial impact (Explain):
- Request provided to department’s finance contact when provided to the Committee Coordinator.

Community Impact (use any categories that apply)

Ward: All

Neighborhood Notification: All neighborhood groups were notified on February 2, 2009

City Goals: See staff report.

Comprehensive Plan: See staff report.

Zoning Code: See staff report.

Living Wage/Job Linkage: Not applicable.

End of 60/120-day Decision Period: Not applicable.

Other: Not applicable.

Background/Supporting Information Attached:

Section 599.460 of the Minneapolis Code of Ordinances requires that preservation staff review all applications for a demolition permit to determine whether the affected property is an historic resource. Over the past few years Minneapolis has been dealing with a steadily increasing level of demolition activity. In 2006, CPED-Planning staff reviewed 57 wrecking permit applications. In 2007, the number grew to 191. In 2008, there were 317 wrecking permits were reviewed by staff. The increase in demolition activity has caused staff to review a higher volume of wrecking permits. A by-product of this higher volume of reviews is that it has allowed staff to identify areas that are in need of refinement:

- In the preservation ordinance, and also
- In the processes through which demolitions are handled at the Minneapolis Development Review (MDR) counter and through subsequent internal review and processing.

Staff has identified six challenging trends and issues involving demolition that have proved to be troublesome for staff, residents, applicants and elected officials. We are proposing a series of administrative and ordinance changes to address the issues and to clarify regulations, policy, and practice.

While the ordinance has been opened to address the concerns around the demolition of historic resources there are other portions of the ordinance that CPED would like to address. CPED is proposing a series of housekeeping amendments that will clean-up outdated information and add clarity on other practices.

Staff is proposing amendments to the ordinance to clarify the following:

- Demolition of Historic Resources
- General Application Procedures
- Findings for Certificate of Appropriateness
- Findings for Certificate of No Change
- Historic Property Maintenance Plan

Attachments

1. Heritage Preservation Staff Report from February 10, 2009
2. Proposed Revision to Preservation Ordinance, Chapter 599 of the Minneapolis Code of Ordinances

**CITY OF MINNEAPOLIS
CPED-PLANNING DIVISION
HERITAGE PRESERVATION COMMISSION STAFF REPORT**

FILE NAME: Revisions to Title 23, Chapter 599 Preservation – concerning matters related to Historic Resources, Review of Demolitions, and other “housekeeping” clarifications.

CATEGORY/DISTRICT: Citywide

SUBMITTED BY: Community Planning Economic Development Department (CPED)

PUBLICATION DATE: February 3, 2009

DATE OF HEARING: February 10, 2009

STAFF INVESTIGATION AND REPORT: Brian Schaffer (612) 673-2670

A. BACKGROUND

Demolition

Section 599.460 of the Minneapolis Code of Ordinances requires that preservation staff review all applications for a demolition permit to determine whether the affected property is an historic resource. Over the past few years Minneapolis has been dealing with a steadily increasing level of demolition activity. In 2006, CPED-Planning staff reviewed 57 wrecking permit applications. In 2007, the number grew to 191. In 2008, there were 317 wrecking permits were reviewed by staff. The increase in demolition activity has caused staff to review a higher volume of wrecking permits. A by-product of this higher volume of reviews is that it has allowed staff to identify areas that are in need of refinement:

- In the preservation ordinance, and also
- In the processes through which demolitions are handled at the Minneapolis Development Review (MDR) counter and through subsequent internal review and processing.

Staff has identified six challenging trends and issues involving demolition that have that have proved to be troublesome for staff, residents, applicants and elected officials. We are proposing a series of administrative and ordinance changes to address the issues and to clarify regulations, policy, and practice.

1. Construction Permit Loophole – Avoidance of Public Hearing

Description of problem: By seeking and applying for a remodeling permit (BIRE) for demolition instead of wrecking permit (BWM), some property owners have circumvented the required review of demolition permits through the preservation ordinance. This practice has been especially problematic when all but a single wall of a building is being removed for construction of a new building.

Proposed remedies:

- A. *Administrative change:* The Construction Code Services division of the Regulatory Services Department will soon release an “Administrative Announcement” stating that the removal or enclosure of 60 percent of the wall and roof requires a Building, Wrecking and Moving permit (BWM), not a remodeling permit (BIRE). Requiring a BWM for such large-scale changes will trigger the appropriate review of demolition through the preservation ordinance.
- B. *Ordinance Amendment:* Create definition of Demolition in 599 to reflect the Administrative Announcement.

2. Lack of Public Notice

Description of problem: State law requires wrecking contractors to notify immediately adjacent neighbors prior to a demolition.

Proposed remedies:

- A. *Administrative change:* Minneapolis Development Review will include the language from the International Building Code Section 3307- Protection of Adjoining Property in the wrecking application checklist. This section requires the notification of adjacent property owners to a proposed demolition ten days in advance of the demolition.
- B. *Administrative change:* At the time of application, Minneapolis Development Review will also provide wrecking contractors with a sample letter to use for notification.
- C. *Administrative change:* Minneapolis Development Review will revise the BWM application process form so that it requires Applicant to confirm that they understand and will comply with their state required obligations for public notice related to demolitions.
- D. *Administrative change:* CPED-Planning will add preservation permits (BZH) to the weekly report on land use applications it currently publishes for neighborhood groups and council members. This being the case, neighborhood groups and council members will now have a regular report in which to monitor applications for demolition (and other preservation-related applications) in their area.

3. Confusion in the public and among property owners regarding CPED resources available to “save” eligible properties by funding designation studies.

Description of problem: In describing the duties of local officials, Chapter 599 currently states that the Planning Director will “prepare or cause to be prepared” designation studies when they are required. It does not currently stipulate who pays for designation studies. The CPED-Planning budget typically allows for the resources to conduct designation studies that are part of the defined work plan for the department or for those designations studies that come as part of a larger city priority. A specific pot of money is not established and waiting so that CPED can conduct designation studies to fend off every market-driven proposal to tear down eligible historic resources. In cases where demolition is initiated by a private property owner, CPED’s policy has been to require the property owner to fund the designation study.

Proposed remedies:

- A. *Ordinance Amendment:* Revise Ch. 599 to stipulate that designation studies originating from Demolition of Historic Resource initiated by property owners may be required to be paid for

by the Property Owner. Provisions are proposed to ensure that the scope of services is defined by City staff and that the final project is reviewed by city staff prior to submission to the Heritage Preservation Commission.

- B. *Ordinance Amendment*: Revise 599 to include a fee for Demolition of Historic Resources Application.

4. Protecting the entirety of potential historic districts when threats are posed through individual cases.

Description of problem: In cases where a single demolition is sought within a larger area that is considered a potential historic district, neighbors may come out in opposition to an individual demolition because of how a structure contributes to the neighborhood or area. Out of fairness, CPED-Planning has not sought to burden the individual property owner seeking demolition with the cost of a designation study for the entire district. However, a property that is contributing to a potential historic district is not necessarily eligible for designation as an individual landmark and so the resulting designation study may not yield the information necessary to maintain the integrity of the larger potential district.

Proposed remedies:

- A. *Administrative change*: Create “Historic Review Letter” process, form, and fee to provide statement of no-significance (see above description).
- B. *Ordinance Amendment*: Update thresholds of demolition defined in ch. 599.
- C. *Ordinance Amendment*: Create language for “Demolition Delay” which would allow the HPC another option besides calling for a designation study. This option would allow the HPC to stay the demolition for a period of time so that interested neighbors might pursue their own options for saving the property – usually through purchase or through preparation of a nomination for possible designation.

5. Wrecking Permit application being confused with property due diligence

Description of problem: Too many property owners apply for a wrecking permit as a means to pursue due diligence research on historic qualifications of property. In recent years as economy has worsened, some property owners seek to demolish their property without adequate consideration of the consequences a vacant parcel would have on their surrounding neighbors. Too often property owners do not seek available city help in conducting their due diligence beforehand. Consequently they are using a construction permit application to initiate a preservation review of their property. Construction permits are meant for projects that have already received their required reviews, not as a research technique. The practice causes confusion within MDR since in many cases, no plans for replacement construction have been submitted, no land use approval has been granted, and no other construction permits are sought.

Currently, the CPED Preservation and Design Team offers verbal review of a property’s historic potential (technically similar to the mandatory wrecking review) for customers at the MDR counter or to callers through 3-1-1. Additionally, CPED-Planning currently offers profile information regarding the historic status of designated properties on the HPC website.

Proposed remedy:

A. *Administrative change:* The CPED Preservation and Design Team will create “Historic Review Letter” process, form, and fee to provide property owners with a statement of potential historic significance of their property and its eligibility as a local landmark. This letter will certify for property owners the findings of the staff review of the property *prior to* the submission of a BWM permit. This letter will provide reliable, durable information for property owners or their designees to review in advance of making crucial decisions about possible demolition of their structure *before* embarking on a permit application process that may be more complicated than they anticipate. This certification will also be especially useful in cases where property owners are already working responsibly on due diligence related to development plans and land use applications.

6. Reduce Turn Around Time for preservation review and processing of BWM/wrecking permit applications

Description of problem: The preservation review of wrecking permits takes longer than necessary in some cases because the application form does not seek basic information that can be used to verify whether the demolition is in conjunction with a project that has already received necessary land use approvals. Additionally, the wrecking application does not specify whether the proposed demolition is being contracted under Director’s Orders for a documented Problem Property.

Proposed remedy:

A. *Administrative change:* Revising the BWM application form so that it requires Applicant to submit and/or confirm this information.

Other Housekeeping Changes

While the ordinance has been opened to address the concerns around the demolition of historic resources there are other portions of the ordinance that staff would like to visit. Staff is also proposing a series of housekeeping amendments that will clean-up outdated information and add clarity on other practices. Staff is proposing the additions and changes to the following sections.

- Definitions
- General Application Procedures
- Fees
- Required Findings for Certificates of Appropriateness
- Required Findings for Certificates of No Change
- Historic Property Maintenance Plan

B. PROPOSED CHANGES

Defining Demolition and the Review of Historic Resources

The purpose of this ordinance amendment is to address the problem of property owners avoiding a public hearing for the demolition of an historic resource by applying for a remodeling permit instead of a wrecking permit. Section 599.460 of the current ordinance states that the trigger by which a property

is to be reviewed by preservation staff is the application for a *wrecking* permit. Creative applicants have submitted *remodeling* permits that remove and alter a substantial portion of a structure instead of a wrecking permit. The result is the same as the demolition, but the applicant circumvents preservation review.

The current preservation ordinance does not define demolition. Staff worked with our colleagues in Construction Code Services of the City’s Regulatory Services Department to define a threshold for what construction activities trigger the need for a wrecking permit. Construction Code Services will be releasing an Administrative Announcement stating that the removal or enclosure of 60 percent of a structure requires a wrecking permit. To be consistent with our internal partners, staff is proposing to codify this threshold as the definition for demolition in section 599.110 Definitions Section of the ordinance. The proposed language is below.

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

Staff is also proposing to amend section 599.460 of the ordinance regarding Historic Resources. Staff proposes to change the trigger for review of historic resources from wrecking permit application to building permits that meet the newly created definition of demolition or destruction.

599.460. Review of demolitions permits. The planning director shall review all building permit applications that meet the definition for demolition or destruction ~~for a demolition permit~~ to determine whether the affected property is an historic resource. If the planning director determines that the property is not an historic resource, the ~~demolition~~ 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

Clarifying the use of Demolition Delay as an Option for the Heritage Preservation Commission Decision

The purpose of this ordinance amendment is to provide the opportunity to address the protection of the entirety of potential historic districts when threats are posed through individual cases. Many of the identified historic resources in Minneapolis are properties that are contributing to a potential historic district. Often times a property that is contributing to an historic district does not possess the significance to be individually eligible for designation. Neighbors are in opposition to the demolition because of how a structure contributes to the neighborhood or area. Under the current ordinance the demolition of an historic resource application does not consider the significance of a structure as it contributes to a potential historic district. This narrowed focus and inability to address the broader context of a district proves frustrating for staff, commissioners, council members, and the public. Staff is proposing a mechanism to address the issue of a broader historic district through the use what is known as “demolition delay.”

The ordinance currently provides for the following choice of actions resulting from a demolition of an historic resource application:

- Approve the demolition
- Approve the demolition with a mitigation plan
- Deny the demolition and direct the commencement of a designation study
- Delay a final decision for a reasonable period of time to allow parties interested in preserving the historic resource a reasonable opportunity to act to protect it.

The last option, delay the final decision, has not been used as an option. Staff believes this is due to the ambiguity of how this action would be implemented. Under the proposed ordinance revision an application for the demolition of an historic resource for a property that (a.) does not appear to be individually meet any of the criteria for local designation, but (b.) does appear to meet the criteria for local designation as a contributing resource to a potential historic district will be approved with a condition that the demolition shall not occur for up to one hundred-eighty (180) days. The commission will have the discretion to shorten that time period to less than 180 days – when necessary - based on the findings they make in their deliberations. During this time interested parties can conduct additional research and prepare a nomination for the potential historic district. Staff is proposing to clarify this responsibility by amending section 599.480 of the ordinance.

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 ~~commence~~ 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 ~~a reasonable period of time~~ 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).

Clarifying the Responsibility for a Designation Study

The purpose of this ordinance amendment is to provide clarity on the responsibility of a designation study that originates from a Demolition of an Historic Resource application. One of the potential outcomes of a Demolition of an Historic Resource application is the direction to commence a designation study. The responsibility of the designation study is not clearly stated in the ordinance, which is cause for some confusion. A designation study requires the use of numerous hours of staff time and does not allow staff to follow a strategic plan on designations – it places staff in a reactionary position. This diverts city resources from areas in which preservation is wanted and pursued. Staff is proposing to clarify this responsibility by amending section 599.230 and 599.480 of the ordinance.

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 of the criteria for designation contained in section 599.210, the commission may direct the planning director to ~~commence~~ 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.

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 ~~commence~~ 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.

Introducing a Fee for a Demolition of an Historic Resource Application

The purpose of this ordinance amendment is to assign a fee for demolition of an historic resource application that is commiserate with typical staff resources needed to process the application. Currently the application does not have a fee assigned to it. Staff has determined that the staff resources devoted to the application is consistent with the resources devoted to an appeal of the planning director application and is proposed at \$350. Staff is proposing to modify section 599.175 of the ordinance.

Housekeeping Revisions

Definitions

Staff is proposing new definitions for terms that were used in the ordinance, but never defined such as Destruction and Significance. Staff is also introducing some new terms and concepts that require definition, such as Cultural Resource, Historic Property Maintenance Plan, and Potential Historic District. Staff is proposing the following definitions.

- *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.
- *Destruction.* The removal, damage or enclosure of architectural, mechanical or landscape features that may have an adverse effect on the historical integrity and significance of a property.
- *Historic property maintenance plan.* A study and report prepared to document and prioritize anticipated maintenance, repairs, alterations, and minor alterations for properties that are locally designated.
- *Potential Historic District.* A collection of 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 an historic district as provided in this chapter.
- *Significance.* The authenticity 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.

General Application Procedures

The current application procedures outlined in section 599.160 of the Preservation Ordinance are quite simple and do not reflect the robust applications process staff handles. The current staff process used accepting and reviewing applications is mostly similar to how CPED handles land use applications. It has been in practice in CPED for several years, but up to now much of that process has not been defined in the ordinance. The proposed revisions to the preservation ordinance are based on the zoning ordinance's application procedures set forth in section 525.140 of the Minneapolis Code of Ordinances. The purpose of the revisions is to provide applicants, customers, and staff with clear requirements. The proposed revisions include a requirement that applicants provide proof of notification to applicable neighborhood groups and council members for the application to be deemed complete. This is similar to the zoning ordinance and will provide more notice to council members and neighborhood groups on upcoming projects.

As part of the revisions to the General Application Procedures staff is proposing to modify the fees required for applications. State law requires that the fees collected for applications not exceed the staff resources required to process applications. Staff is proposing adjusting the fees for Alterations and New

Construction for projects greater than 10,000 square feet of lot area. Projects of this scope often require substantially more staff resources than smaller projects and the current ordinance reflects this in a graduated fee schedule. Staff is proposing to increase these fees an additional \$100. Table 599.1 of the ordinance shows the fee schedule.

Table 599.1 Fees

TABLE INSET:

Application Type	Fee (Dollars)
Appeal of the ruling of the heritage preservation commission	300.00 <u>350.00</u>
Appeal of the ruling of the zoning administrator, planning director, or other official involved in the administration or the enforcement of this preservation ordinance	300.00 <u>350.00</u>
Certificate of no change	0.00
Certificate of appropriateness	
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	650.00 <u>750.00</u>
43,560 sf of lot area or more	850.00 <u>950.00</u>
New construction	
0--9,999 sf of lot area	450.00
10,000--43,559 sf of lot area	650.00 <u>750.00</u>
43,560 sf of lot area or more	850.00 <u>950.00</u>
<u>Demolition of historic resource</u>	<u>350.00</u>
Historic variance	250.00
Transfer development rights	350.00

Findings for a Certificate of Appropriateness

Much like the General Application Procedures, the required findings for certificate of appropriateness in section 599.350 are quite simple and do not reflect the robust review conducted by staff in regular

practice. Staff is proposing to revise the existing findings by bolstering their content to include the items reviewed in our standard practice. The intention is that proposed revisions will allow for better communication with applicants, staff, commissioners, council members, and the public. Staff believes the proposed revisions will result in more thoughtful analysis of projects by both the staff and the applicants and – most importantly – legal findings that are more easily understood and therefore more sound. Similar to the application process used for all land use applications that go before the City Planning Commission (CPC) and Board of Adjustment (BOA), Applicants will be required to provide a written response to each of the required preservation findings in their application submission for the Heritage Preservation Commission (HPC). The following preservation findings are proposed. (The key words in each are highlighted for purposes of this report only):

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: ~~that the alteration will not materially impair the integrity of the landmark, historic district or nominated property under interim protection and is consistent with the applicable design guidelines adopted by the commission, or if design guidelines have not been adopted, is consistent with the recommendations contained in The Secretary of the Interior's Standards for Rehabilitation, except as otherwise provided in this section.~~

- (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. (2001-Or-029, § 1, 3-2-01)
- (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 reconstructing 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.

Historic Property Maintenance Plan

Many of the City's historic landmarks and properties within historic districts are well maintained. However there are a handful of landmarks and properties within historic districts that are in need of maintenance and repair. These structures appear to be on a path of demolition by neglect. Staff is proposing a new concept called a Historic Property Maintenance Plan. Section 599.650 Duty to Maintain requires that all properties are kept in a state of maintenance required by the Minneapolis Code of Ordinances. The proposed revision will compel the property owners have a plan for maintaining their structures and for performing general up keep.

The language included below is based on language in the zoning code that requires institutional properties to maintain a campus master plan. The intent for including this in the ordinance is twofold:

- First and most importantly, it gives property owners a series of benchmarks for what constitutes thoughtful, proactive maintenance of a landmark property. Such benchmarks are especially useful in forging cooperative working relationships between preservation staff, commissioners and property owners. Successful property maintenance plans can be adopted once through a Certificate of Appropriateness so that subsequent maintenance items consistent with the plan can be approved administratively to be approved through Certificates of No Change.
- Second, in cases where designated properties are falling into serious neglect, CPED will have a regulatory definition and tool that serves as a basis for enforcement action when such action is deemed necessary by the City.

599.650. Duty to maintain. All landmarks, properties in historic 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)

- (a) Historic property maintenance plan. All landmarks and properties in historic districts shall prepare and keep on file an historic resource maintenance plan that describes anticipated maintenance and repair needs for the property for a period of no less than (5) years. Historic resource maintenance plan shall include a list of all critical property features, components, and systems and shall include description of anticipated maintenance, alterations, and minor alterations, prioritization of anticipated work, the probable sequence for anticipated work, estimated dates of related work, anticipated longevity of maintenance, repairs and replacements, and a description of how anticipated maintenance, alterations, and minor alterations will be undertaken in compliance with local regulations.
- (b) The planning director may, for good cause shown and without any notice or hearing, require submittal of a current historic resource maintenance plan for a landmark or properties in historic districts.

C. CONSISTENCY WITH THE COMPREHENSIVE PLAN

The Minneapolis Plan, 2000

Policy 4.14 of the Minneapolis Plan, adopted in 2000, states that “Minneapolis will maintain the quality and unique character of the city's housing stock, thus maintaining the character of the vast majority of residential blocks in the city.” The following implementation step is listed under this policy “encourage adaptive re-use, retrofit and renovation projects that make the city's housing stock competitive on the regional market.” The following implementation steps under policy 4.15 provide additional support for the proposed ordinance amendments. They state “emphasize recycling of existing housing stock whenever feasible through renovation and rehab as an alternative to demolition.” And “maintain and strengthen the architectural character of the city's various residential neighborhoods.”

The Minneapolis Plan for Sustainable Growth, 2008 Update

In 2008 a draft version of Minneapolis Plan was approved by the City Council and submitted to the Metropolitan Council for formal review. Once the formal review is complete The Minneapolis Plan for Sustainable Growth will be adopted by the City Council. While this is not the official planning document the policies in the plan provide additional support for the proposed ordinance amendments. The following are policies and implementation steps from the plan.

Policy 8.7: Create a regulatory framework and consider implementing incentives to support the ethic of “reduce, reuse, and recycle” and revitalization for buildings and neighborhoods.

8.7.1 Protect historic resources from demolition and explore alternatives to demolition.

8.7.2 Research and modify the preservation and zoning ordinances as they relate to demolition of historic resources, in order to better serve neighborhoods.

Policy 8.8: Preserve neighborhood character by preserving the quality of the built environment.

8.8.1 Preserve and maintain the character and quality of residential neighborhoods with regulatory tools such as the zoning code and housing maintenance code.

8.8.2 In addition to local designation, develop other preservation tools, like conservation districts, to preserve the historic character of neighborhoods and landscapes.

Policy 8.11: Improve and adapt preservation regulations to recognize City goals, current preservation practices, and emerging historical contexts.

8.11.1 Update the preservation ordinance to include the codification of local districts and landmarks, discourage demolition of historic resources, and incorporate conservation districts.

Policy 10.7: Maintain and preserve the quality and unique character of the city's existing housing stock.

10.7.1 Rehabilitation of older and historic housing stock should be encouraged over demolition.

10.7.3 Encourage adaptive reuse, retrofit and renovation projects that make the city's housing stock competitive on the regional market.

The proposed ordinance amendments implement policy 8.11 of The Minneapolis Plan for Sustainable Growth. The proposed ordinance amendments will maintain the quality and unique character of the city's housing stock by providing a clear ordinance regarding the demolition of historic resources. The ordinance amendments will further help maintain and strengthen the architectural character of the city's various residential neighborhoods.

D. CONSISTENCY OF AMENDMENTS WITH OTHER CITIES

Practices in cities similar to Minneapolis vary widely in terms of scope and standards for review of demolitions and historic resources. The City of Minneapolis is unique in the way it handles demolitions and identifies historic resources. Preservation staff currently reviews every demolition permit within the city to determine whether or not the affected property is an historic resource. If the property is determined to be an historic resource, the permit cannot be approved administratively and a demolition of historic resource application is required. That application must be reviewed by the Heritage Preservation Commission in a public hearing so that neighbors and other interested parties can testify.

Many communities use a tool called demolition delay when reviewing demolition permits. Demolition Delay is initiated when a property appears to meet criteria for designation. The purpose of demolition delay is to allow interested parties to prepare to work to protect the property, which is often done through the preparation of a nomination for historic designation.

In Minneapolis, in cases where a demolition is initiated by the property owner, the Demolition of an Historic Resource application and hearing is generally used in a situation where other cities typically use the landmark nomination process. This process works well for properties that are eligible for local designation as an individual landmark. However the demolition of an historic resource process does not provide adequate review or protection for properties that do not merit individual designation, but are considered contributing to a potential historic district. CPED's proposal to institute the option for the HPC to delay demolition for up to 180 days for properties meeting these criteria is consistent with many other communities.

E. STAFF RECOMMENDATION

Staff recommends that the Heritage Preservation Commission and the City Council **adopt** staff findings and **approve** the proposed amendments to the preservation Ordinance.

Attachment:

1. Proposed Revision to Preservation Ordinance, Chapter 599 of the Minneapolis Code of Ordinances

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 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, 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 one (1) year 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)

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. (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.

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.

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

Commission. The 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 destroying, 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 to be used in reviewing applications for certificates of appropriateness and certificates of no change.

Destruction. The removal, damage or enclosure of architectural, mechanical or landscape features 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.

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 property maintenance plan. A study and report prepared to document and prioritize anticipated maintenance, repairs, alterations, and minor alterations for properties that are locally designated.

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.

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.

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

Potential Historic District. A collection of 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 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 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 for Rehabilitation.~~ The most recent standards for the treatment of historic properties ~~rehabilitating historic buildings~~ 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)

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.

ARTICLE II. DUTIES OF DECISION MAKING BODIES AND OFFICIALS

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 to revise design guidelines as necessary.
- (11) To review and make recommendations to the city council on proposed amendments to the zoning code.
- (12) To make recommendations to the city council on proposed amendments to this chapter.
- (13) To inform and educate the citizens of Minneapolis concerning the historical, cultural, architectural, archaeological or engineering heritage of the city.
- (14) To seek and identify incentives to encourage both public and private investments in preserving the city's landmarks, historic districts and historic resources.
- (15) To make recommendations to the city council that designated properties or historic resources be acquired by purchase, gift or by eminent domain.
- (16) To take such other actions as are reasonable and necessary for the administration and enforcement of this chapter.

(c) *Commission membership.* The commission shall consist of ten (10) ~~eleven (11)~~ 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 shall be the representative of the mayor. If available, at least two (2) shall be registered architects, at least one shall be a licensed real estate agent or appraiser, at least one shall reside in or own a landmark or property in an historic district, ~~at least one shall be a member of the Minneapolis committee on urban environment and if available at least one (1) shall be a member of the Hennepin County historical society.~~ All appointments, except the mayor's representative, shall be made by the city council and 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 member of the commission ~~and one member of the city planning 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. ~~The term of any member presently serving without a specified term shall begin on the effective date of this chapter. All members, including members of the commission serving on the effective date of this chapter, shall continue in office until their successors are appointed. The mayor's representative shall be appointed to the first available vacancy following adoption of this chapter.~~ No member shall serve more than three (3) full terms consecutively. ~~The term limit shall apply to present members of the commission upon their next reappointment following adoption of this chapter.~~ Any member may reapply for appointment after missing one full term.

(d) *Public hearings.* The commission shall schedule public hearings not less than once twice per month, ~~except in those months where the chair determines that because of holiday schedules or the number of agenda items one (1) meeting is sufficient to carry out the commission's duties.~~ 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 hearing meeting attended with a limitation of ~~one (1) meeting per day~~ and four (4) meetings per month.

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) To prepare or cause to be prepared designation studies and design guidelines.
- (7) To identify historic resources.
- (8) To establish and administer rules and regulations relating to the administration of this chapter, including application forms.
- (9) To review and make recommendations on proposed amendments to this chapter.
- (10) To maintain all records which are a part of the administration of this chapter.
- (11) To take such other actions as reasonable and necessary for the administration and enforcement of this chapter. (2001-Or-029, § 1, 3-2-01)

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)

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. ~~An application~~ Applications shall not be accepted as complete until the applicant has complied with all of the following requirements set forth in the application form, including the submission of all required supporting information and any required list of property owners.

- (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).

- (8) The planning director may, for good cause shown and without any notice or hearing, require submittal of current historic resource maintenance plan.

(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)

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 zoning administrator'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)

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	300.00 <u>350.00</u>
Appeal of the ruling of the zoning administrator, planning director, or other official involved in the administration or the enforcement of this preservation ordinance	300.00 <u>350.00</u>
Certificate of no change	0.00
Certificate of appropriateness	
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	650.00 <u>750.00</u>
43,560 sf of lot area or more	850.00 <u>950.00</u>
New construction	
0--9,999 sf of lot area	450.00
10,000--43,559 sf of lot area	650.00 <u>750.00</u>

43,560 sf of lot area or more	850.00 <u>950.00</u>
<u>Demolition of historic resource</u>	<u>350.00</u>
Historic variance	250.00
Transfer development rights	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)

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)

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)

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)

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 of the criteria for designation contained in section 599.210, the commission may direct the planning director to ~~commence~~ 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.

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, 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. (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. (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: ~~that the alteration will not materially impair the integrity of the landmark, historic district or nominated property under interim protection and is consistent with the applicable design guidelines adopted by the commission, or if design guidelines have not been adopted, is consistent with the recommendations contained in The Secretary of the Interior's Standards for Rehabilitation, except as otherwise provided in this section.~~

- (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.
- (c) *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. (2001-Or-029, § 1, 3-2-01)
- (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.

(e) 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.

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. 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: determine that the application is consistent with the applicable design guidelines adopted by the commission, or if design guidelines have not been adopted, is consistent with the recommendations contained in The Secretary of the Interior's Standards for Rehabilitation. (2001-Or-029, § 1, 3-2-01)

- (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.

(b) 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 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.

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 permits. The planning director shall review all building permit applications that meet the definition for demolition or destruction for a demolition permit to determine whether the affected property is an historic resource. If the planning director determines that the property is not an historic resource, the

~~demolition 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.

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 ~~commence~~ 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 a ~~reasonable period of time~~ 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).

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 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, 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)

(a) Historic property maintenance plan. All landmarks and properties in historic districts shall prepare and keep on file an historic resource maintenance plan that describes anticipated maintenance and repair needs for the property for a period of no less than (5) years. Historic resource

maintenance plan shall include a list of all critical property features, components, and systems and shall include description of anticipated maintenance, alterations, and minor alterations, prioritization of anticipated work, the probable sequence for anticipated work, estimated dates of related work, anticipated longevity of maintenance, repairs and replacements, and a description of how anticipated maintenance, alterations, and minor alterations will be undertaken in compliance with local regulations.

- (b) The planning director may, for good cause shown and without any notice or hearing, require submittal of a current historic resource maintenance plan for a landmark or properties in historic districts.

599.660. Prevention of deterioration. No person with a legal or equitable interest in a landmark, property in an historic 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, 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)

