

MANISTEE CITY HISTORIC DISTRICT COMMISSION

Meeting of Thursday, August 2, 2018
3:00 p.m. - Council Chambers, City Hall, 70 Maple Street,
Manistee, Michigan

AGENDA

I Call to Order

II Roll Call

III Approval of Agenda

At this time the Historic District Commission can take action to approve the August 2, 2018 Agenda.

IV Approval of Minutes

At this time Historic District Commission can take action to approve the July 12, 2018 meeting Minutes.

V Public Comment on Agenda Related items

At this time the Chair will ask if there are any public comments.

VI New Business

Local Historic Districts Act (Act 169 of 1907)/Guidelines and Policies

At this time the commission will review the Local Historic Districts Act and discuss the importance of updating their Guidelines and Policies

VII Old Business

Permit Review

At this time the Commission may take action to close out any outstanding permits.

VIII Public Comments and Communications concerning Items not on the Agenda

At this time the Chair will ask if there are any public comments.

IX Correspondence

At this time the Chair will ask if any correspondence has been received to be read into the record.

X Reports

DDA Executive & Economic Development Director
Museum Curator
Museum Director
Planning & Zoning Director

XI Members Discussion

At this time the Chair will ask members of the Historic District Commission if they have any items they want to discuss.

XII Worksession

XIII Adjournment



Memorandum

TO: Historic District Commissioners

FROM: Denise Blakeslee, Planning & Zoning Director

DATE: June 26, 2018

RE: Historic District Commission Meeting August 2, 2018

Denise Blakeslee
Planning & Zoning Director
70 Maple Street
Manistee, MI 49660
231.398.2805
dblakeslee@manisteemi.gov
www.manisteemi.gov

Commissioners, the next meeting of the Historic District Commission will be on Thursday, August 2, 2018 at 3:00 pm in the Council Chambers. This will be my last meeting with the commission and I have put on the agenda the Local Historic Districts Act and Guidelines and Policies.

Both Commissioner Albee and Commissioner Russell asked to discuss the act at the meeting.

In your packets I have included a copy of the act and Chapter 1280 Historic District Commission. You have copies of the guidelines in your binders at home and in your binders for the meeting. So copies will be available at the meeting.

Please call me at 398.2805 if you are unable to attend the meeting.

HISTORIC DISTRICT COMMISSION

Council Chambers, City Hall
70 Maple Street
Manistee, MI 49660

MEETING MINUTES

July 12, 2018

A Meeting of the Manistee City Historic District Commission was held on Thursday, July 12, 2018 at 3:00 p.m. in the Council Chambers, City Hall, 70 Maple Street, Manistee, Michigan.

Meeting was called to order at 3:00 p.m. by Chair Perschbacher

ROLL CALL:

Members Present: Aaron Bennett, Dick Albee, John Perschbacher, Mary Russell, Lee Trucks, Mark Wittlieff

Members Absent: Vacancy

Others: Jim Matthews (334 River Street), Ed Kriskywicz (100 Washington Street), Steve Harold (Museum Curator), and Denise Blakeslee (Planning & Zoning Director) and others

APPROVAL OF AGENDA:

MOTION by Mary Russell, seconded by Dick Albee that the Agenda be approved as prepared.

With a voice vote this motion passed unanimously.

APPROVAL OF MINUTES:

MOTION by Dick Albee, seconded by Mark Wittlieff that the Minutes of the June 25, 2018 Meeting be approved as prepared

With a voice vote this motion passed unanimously.

PUBLIC COMMENT ON AGENDA RELATED ITEMS

Jim Matthews, 334 River Street spoke about the value of the commission, how the commission needs to be proactive with applications and about three properties, one in the district and two outside the district.

NEW BUSINESS:

HDC-2018-05 Ed Kriskywicz and Tamara DePonio, 100 Washington Street – Certificate of Appropriateness for façade improvements.

A request has been received from Ed Kriskywicz and Tamara DePonio for a certificate of appropriateness for façade improvements at 100 Washington Street as submitted with application HDC-2018-05. Ms. Blakeslee

reviewed the components of the request with the commission. Ed Kriskywicz clarified components of the request and answered questions from the commissioners. Synopsis of the discussion is as follows:

- Windows/Storefront east and south elevations will be replaced with Tubelite 14000 Series Flush Glaze Aluminum storefront, curtain/wall and entrance systems.
 - There is a bottom sill under the windows that will not be removed. The renderings did not include the sill.
- Windows west and north elevations are proposed to be glass block windows.
 - Mr. Kriskywicz is not sure if he will use glass block or regular glass, depends on the cost
 - He would have to bring the final selection back to the commission.
- Entry Doors north, east and south elevations replaced with Tubelite 14000 Series Flush Glaze Aluminum storefront, curtain/wall and entrance systems.
 - All the doors will be the same
- Garage Doors replaced with Aluminum and Glass overhead doors with Clopay Commercial Architectural Series Aluminum and Glass Overhead Doors.
 - For security purposes Mr. Kriskywicz is asking that frosted windows be allowed instead of regular glass.
- Add two exterior lights over entry doors east and south elevations: Lamps Plus Urban Barn Collection 13" high bronze outdoor wall light.
 - Mr. Kriskywicz would like the option to install the same light over the north door if he feels it is needed.
 - The commissioners did not see any issues with an additional light being added to the request.
- New concrete cap with metal flashing added around the entire building.
 - The existing concrete cap allows water to pass through and is partially responsible for the spalling of the existing block.
- Existing concrete block on west and north elevation to remain patch repair as needed and tuck point joints as required.
 - This would include replacing blocks if needed.
 - Mr. Kriskywicz plans to paint the block when completed.
 - Paint colors can be approved by the Museum Director after color is selected.
- Remove existing glazed block on south and east elevation and replace with glazed block or split face block
 - Mr. Kriskywicz said they do not make glazed block the same size as the existing, if replacement block were to be used it will be a different size.
 - The cost for glazed block is over \$27,000 more than split face block
 - If split face block is used, provides the option to utilize two colors and add detail to accent the building.

When Mr. Kriskywicz and Ms. DePonio purchased the building they did not have plans for it. They are now ready to move forward with renovating the exterior, putting some office space for his business in a portion of the building and updating the plumbing, electrical and mechanical system in the building. They are looking at applying for a Brownfield for the property and have completed the BEA and Phase I. There is contamination from the hoists in the building. Spoke of the difference in cost between the glazed and split face block and how

the cost can affect the project. He has spoken with Tyler Leppanen, DDA Director about funding options.

Ms. Blakeslee noted that the project may qualify for Historic Tax Credits and asked if he had looked at applying for them. The building is a contributing building and replacement can be permitted if it is done "in kind". If the project is eligible for tax credits it could help with the higher cost for the glazed block. Additionally, MEDC could review the project to see if they could provide additional assistance. The DDA also has a façade grant that he could apply for.

Mr. Kriskywicz said he would be interested in pursuing tax credits for the project.

MOTION by Dick Albee, seconded by Mark Wittlieff that the Historic District Commission approves the request from Ed Kriskywicz and Tamara DePonio, 100 Washington Street for a Certificate of Appropriateness for façade improvements as follows:

- Windows/Storefront east and south elevations will be replaced with Tubelite 14000 Series Flush Glaze Aluminum storefront, curtain/wall and entrance systems.
- Entry Doors north, east and south elevations replaced with Tubelite 14000 Series Flush Glaze Aluminum storefront, curtain/wall and entrance systems.
- Garage Doors replaced with Aluminum and Glass overhead doors with Clopay Commercial Architectural Series Aluminum and Glass Overhead Doors. The use of frosted glass is acceptable.
- Add three exterior lights over entry doors: Lamps Plus Urban Barn Collection 13" high bronze outdoor wall light.
- New concrete cap with metal flashing added around the entire building.
- Existing concrete block on west and north elevation is to be patched, replaced, repaired as needed and tuck point joints as required. Applicant can have paint color approved by the Museum Director at a later date once colors have been selected.
- Removal of existing glazed block on south and east elevation and the applicant has the option to replace with glazed block or split face block.

With a roll call vote Motion failed with a 3 to 3 tie vote.

Yes: Russell, Wittlieff, Albee
No: Bennett, Trucks, Perschbacher

Staff will forward information for applying for tax credits to Mr. Kriskywicz.

OLD BUSINESS

None

PUBLIC COMMENTS AND COMMUNICATIONS CONCERNING ITEMS NOT ON THE AGENDA

Jim Matthews, 334 River Street spoke of the discussion during the meeting by the commission and the vote.

CORRESPONDENCE

A Memo from Tyler Leppanen, DDA Director was given to the members. It spoke of blighted buildings in the DDA District two which were in the Historic District.

STAFF REPORTS

Denise Blakeslee, Planning & Zoning Director – Ms. Blakeslee informed the Commission that she will be retiring on August 31, 2018.

MEMBERS DISCUSSION

Brief discussion relating to the comments from Mr. Matthews on oversight in the district.

WORKSESSION:

The Next meeting of the Historic District Commission will be on Thursday, August 2, 2018 at 3:00 p.m. in the Council Chambers, City Hall, 70 Maple Street.

ADJOURNMENT:

MOTION by Lee Trucks, seconded by Mark Wittlieff that the meeting be adjourned. Motion passed unanimously.

MEETING ADJOURNED AT 4:35 P.M.

MANISTEE HISTORIC DISTRICT COMMISSION

Denise Blakeslee, Acting Recording Secretary

LOCAL HISTORIC DISTRICTS ACT
Act 169 of 1970

AN ACT to provide for the establishment of historic districts; to provide for the acquisition of certain resources for historic preservation purposes; to provide for preservation of historic and nonhistoric resources within historic districts; to provide for the establishment of historic district commissions; to provide for the maintenance of publicly owned resources by local units; to provide for certain assessments under certain circumstances; to provide for procedures; and to provide for remedies and penalties.

History: 1970, Act 169, Imd. Eff. Aug. 3, 1970;—Am. 1986, Act 230, Imd. Eff. Oct. 1, 1986;—Am. 1992, Act 96, Imd. Eff. June 18, 1992.

The People of the State of Michigan enact:

399.201 Short title.

Sec. 1. This act shall be known and may be cited as the “local historic districts act”.

History: 1970, Act 169, Imd. Eff. Aug. 3, 1970;—Am. 1992, Act 96, Imd. Eff. June 18, 1992.

Compiler's note: For transfer of powers and duties of department of history, arts, and libraries or the Michigan historical center relating to the identification, certification, and preservation of historical sites to the Michigan state housing development authority, see E.R.O. No. 2009-26, compiled at MCL 399.752.

399.201a Definitions.

Sec. 1a. As used in this act:

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

(b) “Certificate of appropriateness” means the written approval of a permit application for work that is appropriate and that does not adversely affect a resource.

(c) “Commission” means a historic district commission created by the legislative body of a local unit under section 4.

(d) “Committee” means a historic district study committee appointed by the legislative body of a local unit under section 3 or 14.

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

(f) “Demolition by neglect” means neglect in maintaining, repairing, or securing a resource that results in deterioration of an exterior feature of the resource or the loss of structural integrity of the resource.

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

(h) “Department” means the department of history, arts, and libraries.

(i) “Fire alarm system” means a system designed to detect and annunciate the presence of fire or by-products of fire. Fire alarm system includes smoke alarms.

(j) “Historic district” means an area, or group of areas not necessarily having contiguous boundaries, that contains 1 resource or a group of resources that are related by history, architecture, archaeology, engineering, or culture.

(k) “Historic preservation” means the identification, evaluation, establishment, and protection of resources significant in history, architecture, archaeology, engineering, or culture.

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

(m) “Local unit” means a county, city, village, or township.

(n) “Notice to proceed” means the written permission to issue a permit for work that is inappropriate and that adversely affects a resource, pursuant to a finding under section 5(6).

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

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

(q) “Proposed historic district” means an area, or group of areas not necessarily having contiguous boundaries, that has delineated boundaries and that is under review by a committee or a standing committee

for the purpose of making a recommendation as to whether it should be established as a historic district or added to an established historic district.

(r) "Repair" means to restore a decayed or damaged resource to a good or sound condition by any process. A repair that changes the external appearance of a resource constitutes work for purposes of this act.

(s) "Resource" means 1 or more publicly or privately owned historic or nonhistoric buildings, structures, sites, objects, features, or open spaces located within a historic district.

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

(u) "Standing committee" means a permanent body established by the legislative body of a local unit under section 14 to conduct the activities of a historic district study committee on a continuing basis.

(v) "Work" means construction, addition, alteration, repair, moving, excavation, or demolition.

History: Add. 1992, Act 96, Imd. Eff. June 18, 1992;—Am. 2001, Act 67, Imd. Eff. July 24, 2001;—Am. 2004, Act 67, Imd. Eff. Apr. 20, 2004.

Compiler's note: For transfer of powers and duties of department of history, arts, and libraries or the Michigan historical center relating to the identification, certification, and preservation of historical sites to the Michigan state housing development authority, see E.R.O. No. 2009-26, compiled at MCL 399.752.

399.202 Historic preservation as public purpose; purpose of ordinance.

Sec. 2. Historic preservation is declared to be a public purpose and the legislative body of a local unit may by ordinance regulate the construction, addition, alteration, repair, moving, excavation, and demolition of resources in historic districts within the limits of the local unit. The purpose of the ordinance shall be to do 1 or more of the following:

(a) Safeguard the heritage of the local unit by preserving 1 or more historic districts in the local unit that reflect elements of the unit's history, architecture, archaeology, engineering, or culture.

(b) Stabilize and improve property values in each district and the surrounding areas.

(c) Foster civic beauty.

(d) Strengthen the local economy.

(e) Promote the use of historic districts for the education, pleasure, and welfare of the citizens of the local unit and of the state.

History: 1970, Act 169, Imd. Eff. Aug. 3, 1970;—Am. 1986, Act 230, Imd. Eff. Oct. 1, 1986;—Am. 1992, Act 96, Imd. Eff. June 18, 1992.

Compiler's note: For transfer of powers and duties of department of history, arts, and libraries or the Michigan historical center relating to the identification, certification, and preservation of historical sites to the Michigan state housing development authority, see E.R.O. No. 2009-26, compiled at MCL 399.752.

399.203 Historic districts; establishment; study committee; duties; public hearing; notice; actions; availability of writings to public.

Sec. 3. (1) A local unit may, by ordinance, establish 1 or more historic districts. The historic districts shall be administered by a commission established pursuant to section 4. Before establishing a historic district, the legislative body of the local unit shall appoint a historic district study committee. The committee shall contain a majority of persons who have a clearly demonstrated interest in or knowledge of historic preservation, and shall contain representation from 1 or more duly organized local historic preservation organizations. The committee shall do all of the following:

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

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

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

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

(i) The charge of the committee.

- (ii) The composition of the committee membership.
 - (iii) The historic district or districts studied.
 - (iv) The boundaries for each proposed historic district in writing and on maps.
 - (v) The history of each proposed historic district.
 - (vi) The significance of each district as a whole, as well as a sufficient number of its individual resources to fully represent the variety of resources found within the district, relative to the evaluation criteria.
- (e) Transmit copies of the preliminary report for review and recommendations to the local planning body, to the department, to the Michigan historical commission, and to the state historic preservation review board.
- (f) Make copies of the preliminary report available to the public pursuant to subsection (4).

(2) Not less than 60 calendar days after the transmittal of the preliminary report, the committee shall hold a public hearing in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the hearing shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Written notice shall be mailed by first-class mail not less than 14 calendar days before the hearing to the owners of properties within the proposed historic district, as listed on the tax rolls of the local unit.

(3) After the date of the public hearing, the committee and the legislative body of the local unit shall have not more than 1 year, unless otherwise authorized by the legislative body of the local unit, to take the following actions:

(a) The committee shall prepare and submit a final report with its recommendations and the recommendations, if any, of the local planning body to the legislative body of the local unit. If the recommendation is to establish a historic district or districts, the final report shall include a draft of a proposed ordinance or ordinances.

(b) After receiving a final report that recommends the establishment of a historic district or districts, the legislative body of the local unit, at its discretion, may introduce and pass or reject an ordinance or ordinances. If the local unit passes an ordinance or ordinances establishing 1 or more historic districts, the local unit shall file a copy of that ordinance or those ordinances, including a legal description of the property or properties located within the historic district or districts, with the register of deeds. A local unit shall not pass an ordinance establishing a contiguous historic district less than 60 days after a majority of the property owners within the proposed historic district, as listed on the tax rolls of the local unit, have approved the establishment of the historic district pursuant to a written petition.

(4) A writing prepared, owned, used, in the possession of, or retained by a committee in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

History: 1970, Act 169, Imd. Eff. Aug. 3, 1970;—Am. 1980, Act 125, Imd. Eff. May 21, 1980;—Am. 1992, Act 96, Imd. Eff. June 18, 1992;—Am. 2001, Act 67, Imd. Eff. July 24, 2001.

Compiler's note: For transfer of powers and duties of department of history, arts, and libraries or the Michigan historical center relating to the identification, certification, and preservation of historical sites to the Michigan state housing development authority, see E.R.O. No. 2009-26, compiled at MCL 399.752.

399.204 Historic district commission; establishment; appointment, qualifications, and terms of members; vacancy; commissions previously established by charter or ordinance.

Sec. 4. The legislative body of a local unit may establish by ordinance a commission to be called the historic district commission. The commission may be established at any time, but not later than the time the first historic district is established by the legislative body of the local unit. Each member of the commission shall reside within the local unit. The membership of the historic district commission in a local unit having a population of 5,000 or more individuals shall consist of not less than 7 or more than 9 members. The membership of the historic district commission in a local unit having a population of less than 5,000 individuals shall consist of not less than 5 or more than 7 members. A majority of the members shall have a clearly demonstrated interest in or knowledge of historic preservation. The members shall be appointed by the township supervisor, village president, mayor, or chairperson of the board of commissioners, unless another method of appointment is provided in the ordinance creating the commission. Initial members shall be appointed within 6 months after the ordinance establishing the commission is enacted. Members shall be appointed for 3-year terms except the initial appointments of some of the members shall be for less than 3 years so that the initial appointments are staggered and that subsequent appointments do not recur at the same time. Members shall be eligible for reappointment. A vacancy on the commission shall be filled within 60 calendar days by an appointment made by the appointing authority. The ordinance creating the commission may provide procedures for terminating an appointment due to the acts or omissions of the member. The appointing authority of a local unit having a population of 25,000 or more individuals shall appoint at least 2

members from a list of citizens submitted by 1 or more duly organized local historic preservation organizations. A local unit having a population of more than 5,000 individuals but less than 25,000 individuals shall appoint at least 1 member from a list of citizens submitted by 1 or more duly organized local historic preservation organizations. The commission of all local units shall include as a member, if available, a graduate of an accredited school of architecture who has 2 years of architectural experience or who is an architect registered in this state. This section does not apply to historic district commissions established by charter or to historic district commissions established by ordinance before August 3, 1970.

History: 1970, Act 169, Imd. Eff. Aug. 3, 1970;—Am. 1971, Act 30, Imd. Eff. May 25, 1971;—Am. 1992, Act 96, Imd. Eff. June 18, 1992.

Compiler's note: For transfer of powers and duties of department of history, arts, and libraries or the Michigan historical center relating to the identification, certification, and preservation of historical sites to the Michigan state housing development authority, see E.R.O. No. 2009-26, compiled at MCL 399.752.

399.205 Permit required; completed application; certificate of appropriateness or notice to proceed; issuance; permit fee; appeal to review board and circuit court; plan review standards, guidelines, and considerations; scope of review; preservation plan; approval; conditions; public meeting; availability of writings to public; rules of procedure; approval of minor work; finding of demolition by neglect; restoration or modification of work done without permit.

Sec. 5. (1) A permit shall be obtained before any work affecting the exterior appearance of a resource is performed within a historic district or, if required under subsection (4), work affecting the interior arrangements of a resource is performed within a historic district. The person, individual, partnership, firm, corporation, organization, institution, or agency of government proposing to do that work shall file an application for a permit with the inspector of buildings, the commission, or other duly delegated authority. If the inspector of buildings or other authority receives the application, the application shall be immediately referred together with all required supporting materials that make the application complete to the commission. A permit shall not be issued and proposed work shall not proceed until the commission has acted on the application by issuing a certificate of appropriateness or a notice to proceed as prescribed in this act. A commission shall not issue a certificate of appropriateness unless the applicant certifies in the application that the property where work will be undertaken has, or will have before the proposed project completion date, a fire alarm system or a smoke alarm complying with the requirements of the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531. A local unit may charge a reasonable fee to process a permit application.

(2) An applicant aggrieved by a decision of a commission concerning a permit application may file an appeal with the state historic preservation review board within the department. The appeal shall be filed within 60 days after the decision is furnished to the applicant. The appellant may submit all or part of the appellant's evidence and arguments in written form. The review board shall consider an appeal at its first regularly scheduled meeting after receiving the appeal, but may not charge a fee for considering an appeal. The review board may affirm, modify, or set aside a commission's decision and may order a commission to issue a certificate of appropriateness or a notice to proceed. A permit applicant aggrieved by the decision of the state historic preservation review board may appeal the decision to the circuit court having jurisdiction over the historic district commission whose decision was appealed to the state historic preservation review board.

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

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

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

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

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

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

230, MCL 125.1501 to 125.1531.

(4) The commission shall review and act upon only exterior features of a resource and, except for noting compliance with the requirement to install a fire alarm system or a smoke alarm, shall not review and act upon interior arrangements unless specifically authorized to do so by the local legislative body or unless interior work will cause visible change to the exterior of the resource. The commission shall not disapprove an application due to considerations not prescribed in subsection (3).

(5) If an application is for work that will adversely affect the exterior of a resource the commission considers valuable to the local unit, state, or nation, and the commission determines that the alteration or loss of that resource will adversely affect the public purpose of the local unit, state, or nation, the commission shall attempt to establish with the owner of the resource an economically feasible plan for preservation of the resource.

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

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

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

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

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

(7) The business that the commission may perform shall be conducted at a public meeting of the commission held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. A meeting agenda shall be part of the notice and shall include a listing of each permit application to be reviewed or considered by the commission.

(8) The commission shall keep a record of its resolutions, proceedings, and actions. A writing prepared, owned, used, in the possession of, or retained by the commission in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(9) The commission shall adopt its own rules of procedure and shall adopt design review standards and guidelines for resource treatment to carry out its duties under this act.

(10) The commission may delegate the issuance of certificates of appropriateness for specified minor classes of work to its staff, to the inspector of buildings, or to another delegated authority. The commission shall provide to the delegated authority specific written standards for issuing certificates of appropriateness under this subsection. On at least a quarterly basis, the commission shall review the certificates of appropriateness, if any, issued for work by its staff, the inspector, or another authority to determine whether or not the delegated responsibilities should be continued.

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

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

(b) If the owner does not make repairs within a reasonable time, the commission or its agents may enter the property and make such repairs as are necessary to prevent demolition by neglect. The costs of the work shall be charged to the owner, and may be levied by the local unit as a special assessment against the property. The commission or its agents may enter the property for purposes of this section upon obtaining an order from the circuit court.

(12) When work has been done upon a resource without a permit, and the commission finds that the work does not qualify for a certificate of appropriateness, the commission may require an owner to restore the resource to the condition the resource was in before the inappropriate work or to modify the work so that it qualifies for a certificate of appropriateness. If the owner does not comply with the restoration or modification requirement within a reasonable time, the commission may seek an order from the circuit court to require the owner to restore the resource to its former condition or to modify the work so that it qualifies for a certificate of appropriateness. If the owner does not comply or cannot comply with the order of the court, the commission or its agents may enter the property and conduct work necessary to restore the resource to its

former condition or modify the work so that it qualifies for a certificate of appropriateness in accordance with the court's order. The costs of the work shall be charged to the owner, and may be levied by the local unit as a special assessment against the property. When acting pursuant to an order of the circuit court, a commission or its agents may enter a property for purposes of this section.

History: 1970, Act 169, Imd. Eff. Aug. 3, 1970;—Am. 1980, Act 125, Imd. Eff. May 21, 1980;—Am. 1986, Act 230, Imd. Eff. Oct. 1, 1986;—Am. 1992, Act 96, Imd. Eff. June 18, 1992;—Am. 2001, Act 67, Imd. Eff. July 24, 2001;—Am. 2004, Act 67, Imd. Eff. Apr. 20, 2004.

Compiler's note: For transfer of powers and duties of department of history, arts, and libraries or the Michigan historical center relating to the identification, certification, and preservation of historical sites to the Michigan state housing development authority, see E.R.O. No. 2009-26, compiled at MCL 399.752.

399.206 Grants, gifts, and programs.

Sec. 6. The legislative body of a local unit may accept state or federal grants for historic preservation purposes, may participate in state and federal programs that benefit historic preservation, and may accept public or private gifts for historic preservation purposes. The legislative body may make the historic district commission, a standing committee, or other agency its duly appointed agent to accept and administer grants, gifts, and program responsibilities.

History: 1970, Act 169, Imd. Eff. Aug. 3, 1970;—Am. 1992, Act 96, Imd. Eff. June 18, 1992.

Compiler's note: For transfer of powers and duties of department of history, arts, and libraries or the Michigan historical center relating to the identification, certification, and preservation of historical sites to the Michigan state housing development authority, see E.R.O. No. 2009-26, compiled at MCL 399.752.

399.207 Historic resource; acquisition by local legislative body.

Sec. 7. If all efforts by the historic district commission to preserve a resource fail, or if it is determined by the local legislative body that public ownership is most suitable, the local legislative body, if considered to be in the public interest, may acquire the resource using public funds, public or private gifts, grants, or proceeds from the issuance of revenue bonds. The acquisition shall be based upon the recommendation of the commission or standing committee. The commission or standing committee is responsible for maintaining publicly owned resources using its own funds, if not specifically designated for other purposes, or public funds committed for that use by the local legislative body. Upon recommendation of the commission or standing committee, the local unit may sell resources acquired under this section with protective easements included in the property transfer documents, if appropriate.

History: 1970, Act 169, Imd. Eff. Aug. 3, 1970;—Am. 1992, Act 96, Imd. Eff. June 18, 1992.

Compiler's note: For transfer of powers and duties of department of history, arts, and libraries or the Michigan historical center relating to the identification, certification, and preservation of historical sites to the Michigan state housing development authority, see E.R.O. No. 2009-26, compiled at MCL 399.752.

399.208 County historic district commission; coordination with township and municipality.

Sec. 8. The jurisdiction of a county shall be the same as that provided in Act No. 183 of the Public Acts of 1943, as amended, being sections 125.201 to 125.232 of the Michigan Compiled Laws, or as otherwise provided by contract entered into between the county and a city, village or township. If a county historic district commission is in existence, coordination between the county historic district commission and township and municipality historic district commissions shall be maintained. The overall historic preservation plans of cities, villages and townships shall be submitted to the county historic district commission for review, and county plans submitted to cities, villages, and townships having historic district commissions. Day-to-day activities of a commission shall not be reviewed unless the activities affect resources of importance to another commission.

History: 1970, Act 169, Imd. Eff. Aug. 3, 1970;—Am. 1992, Act 96, Imd. Eff. June 18, 1992.

Compiler's note: For transfer of powers and duties of department of history, arts, and libraries or the Michigan historical center relating to the identification, certification, and preservation of historical sites to the Michigan state housing development authority, see E.R.O. No. 2009-26, compiled at MCL 399.752.

399.209 Historic district commission; filings with delegated authority; duties of local public officials, employees, and department.

Sec. 9. (1) The commission shall file certificates of appropriateness, notices to proceed, and denials of applications for permits with the inspector of buildings or other delegated authority. A permit shall not be issued until the commission has acted as prescribed by this act. If a permit application is denied, the decision shall be binding on the inspector or other authority. A denial shall be accompanied with a written explanation by the commission of the reasons for denial and, if appropriate, a notice that an application may be

resubmitted for commission review when suggested changes have been made. The denial shall also include notification of the applicant's rights of appeal to the state historic preservation review board and to the circuit court. The failure of the commission to act within 60 calendar days after the date a complete application is filed with the commission, unless an extension is agreed upon in writing by the applicant and the commission, shall be considered to constitute approval.

(2) Local public officials and employees shall provide information and records to committees, commissions, and standing committees, and shall meet with those bodies upon request to assist with their activities.

(3) The department shall cooperate with and assist local units, committees, commissions, and standing committees in carrying out the purposes of this act and may establish or approve standards, guidelines, and procedures that encourage uniform administration of this act in this state but that are not legally binding on any individual or other legal entity.

History: 1970, Act 169, Imd. Eff. Aug. 3, 1970;—Am. 1992, Act 96, Imd. Eff. June 18, 1992;—Am. 2001, Act 67, Imd. Eff. July 24, 2001.

Compiler's note: For transfer of powers and duties of department of history, arts, and libraries or the Michigan historical center relating to the identification, certification, and preservation of historical sites to the Michigan state housing development authority, see E.R.O. No. 2009-26, compiled at MCL 399.752.

399.210 Construction of act.

Sec. 10. Nothing in this act shall be construed to prevent ordinary maintenance or repair of a resource within a historic district, or to prevent work on any resource under a permit issued by the inspector of buildings or other duly delegated authority before the ordinance was enacted.

History: 1970, Act 169, Imd. Eff. Aug. 3, 1970;—Am. 1992, Act 96, Imd. Eff. June 18, 1992.

Compiler's note: For transfer of powers and duties of department of history, arts, and libraries or the Michigan historical center relating to the identification, certification, and preservation of historical sites to the Michigan state housing development authority, see E.R.O. No. 2009-26, compiled at MCL 399.752.

399.211 Appeal of decisions.

Sec. 11. Any citizen or duly organized historic preservation organization in the local unit, as well as resource property owners, jointly or severally aggrieved by a decision of the historic district commission may appeal the decision to the circuit court, except that a permit applicant aggrieved by a decision rendered under section 5(1) may not appeal to the court without first exhausting the right to appeal to the state historic preservation review board under section 5(2).

History: 1970, Act 169, Imd. Eff. Aug. 3, 1970;—Am. 1992, Act 96, Imd. Eff. June 18, 1992.

Compiler's note: For transfer of powers and duties of department of history, arts, and libraries or the Michigan historical center relating to the identification, certification, and preservation of historical sites to the Michigan state housing development authority, see E.R.O. No. 2009-26, compiled at MCL 399.752.

399.212 Effect of act as to existing legislation and historical commissions.

Sec. 12. This act does not affect any previously enacted legislation pertaining to historical preservation and does not affect historical commissions appointed by local governing bodies to foster historic preservation. An existing local historical commission organized under Act No. 213 of the Public Acts of 1957, as amended, being sections 399.171 and 399.172 of the Compiled Laws of 1948, may be designated as a historic district commission, if its membership and structure conform, or are revised to conform, to the provisions of section 4.

History: 1970, Act 169, Imd. Eff. Aug. 3, 1970.

Compiler's note: For transfer of powers and duties of department of history, arts, and libraries or the Michigan historical center relating to the identification, certification, and preservation of historical sites to the Michigan state housing development authority, see E.R.O. No. 2009-26, compiled at MCL 399.752.

399.213 Powers and duties of historic district commission.

Sec. 13. The local legislative body may prescribe powers and duties of the historic district commission, in addition to those prescribed in this act, that foster historic preservation activities, projects, and programs in the local unit.

History: Add. 1986, Act 230, Imd. Eff. Oct. 1, 1986.

Compiler's note: For transfer of powers and duties of department of history, arts, and libraries or the Michigan historical center relating to the identification, certification, and preservation of historical sites to the Michigan state housing development authority, see E.R.O. No. 2009-26, compiled at MCL 399.752.

399.214 Local units; establishing, modifying, or eliminating historic districts; study

committee; considerations; review of applications within proposed historic district; emergency moratorium.

Sec. 14. (1) A local unit may at any time establish by ordinance additional historic districts, including proposed districts previously considered and rejected, may modify boundaries of an existing historic district, or may eliminate an existing historic district. Before establishing, modifying, or eliminating a historic district, a historic district study committee appointed by the legislative body of the local unit shall, except as provided in subsection (2), comply with the procedures set forth in section 3 and shall consider any previously written committee reports pertinent to the proposed action. To conduct these activities, local units may retain the initial committee, establish a standing committee, or establish a committee to consider only specific proposed districts and then be dissolved.

(2) If considering elimination of a historic district, a committee shall follow the procedures set forth in section 3 for issuing a preliminary report, holding a public hearing, and issuing a final report but with the intent of showing 1 or more of the following:

- (i) The historic district has lost those physical characteristics that enabled establishment of the district.
- (ii) The historic district was not significant in the way previously defined.
- (iii) The historic district was established pursuant to defective procedures.

(3) Upon receipt of substantial evidence showing the presence of historic, architectural, archaeological, engineering, or cultural significance of a proposed historic district, the legislative body of a local unit may, at its discretion, adopt a resolution requiring that all applications for permits within the proposed historic district be referred to the commission as prescribed in sections 5 and 9. The commission shall review permit applications with the same powers that would apply if the proposed historic district was an established historic district. The review may continue in the proposed historic district for not more than 1 year, or until such time as the local unit approves or rejects the establishment of the historic district by ordinance, whichever occurs first.

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

History: Add. 1992, Act 96, Imd. Eff. June 18, 1992.

Compiler's note: For transfer of powers and duties of department of history, arts, and libraries or the Michigan historical center relating to the identification, certification, and preservation of historical sites to the Michigan state housing development authority, see E.R.O. No. 2009-26, compiled at MCL 399.752.

399.215 Violation; fine; payment of costs.

Sec. 15. (1) A person, individual, partnership, firm, corporation, organization, institution, or agency of government that violates this act is responsible for a civil violation and may be fined not more than \$5,000.00.

(2) A person, individual, partnership, firm, corporation, organization, institution, or agency of government that violates this act may be ordered by the court to pay the costs to restore or replicate a resource unlawfully constructed, added to, altered, repaired, moved, excavated, or demolished.

History: Add. 1992, Act 96, Imd. Eff. June 18, 1992.

Compiler's note: For transfer of powers and duties of department of history, arts, and libraries or the Michigan historical center relating to the identification, certification, and preservation of historical sites to the Michigan state housing development authority, see E.R.O. No. 2009-26, compiled at MCL 399.752.

**Chapter 1280
Historic District**

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1280.01 STATEMENT OF PURPOSE

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

- A. Safeguard the heritage of the City of Manistee by preserving the Manistee Commercial Historic District, which reflect elements of its history, architecture, archaeology, engineering, or culture.
- B. Foster civic beauty.
- C. Strengthen the local economy.
- D. Promote the use of historic districts for the education, pleasure, and welfare of the citizens of the City of Manistee and of the State of Michigan.

The City of Manistee may by Ordinance establish one or more historic districts. The historic district shall be administered by the Historic District Commission and pursuant to this Ordinance. (Ord. 07-04 adopted 2-20-07)

1280.02 DEFINITIONS

- A. "Alteration" means work that changes the detail of a resource but does not change its basic size or shape.
- B. "Certificate of Appropriateness" means the written approval of a permit application for work that is appropriate and does not adversely affect a resource.
- C. "Commission" means the Historic District Commission of the City of Manistee.
- D. "Demolition" means the razing or destruction, whether entirely or in part, of a resource and includes, but is not limited to, demolition by neglect.
- E. "Demolition by Neglect" means neglect in maintaining, repairing, or securing a resource that results in deterioration of an exterior feature of the resource or the loss of structural integrity of the resource.
- F. "Denial" means the written rejection of a permit application for work that is inappropriate and that adversely affects a resource.
- G. "Historic District" means an area, or group of areas, not necessarily having contiguous boundaries, that contains one resource or a group of resources that are related by history, architecture, archaeology, engineering, or culture.
- H. "Historic Preservation" means the identification, evaluation, establishment, and protection of resources significant in history, architecture, archaeology, engineering, or culture.
- I. "Historic Resource" means a publicly or privately owned building, structure, site, object, feature or open space that is significant in the history, architecture, archaeology, engineering, or culture of the City of Manistee, state of Michigan, or the United States.
- J. "Notice to Proceed" means the written permission to issue a permit for work that is inappropriate and that adversely affects a resource, pursuant to a finding under Section 399.205(6) of Public Act 169 of 1970, as amended.
- K. "Open Space" means undeveloped land, a naturally landscaped area, or a formal or man-made landscaped area that provides a connective link or buffer between other resources.
- L. "Ordinary Maintenance" means keeping a resource unimpaired and in good condition through ongoing minor intervention, undertaken from time to time, in its exterior condition. Ordinary maintenance does not change the external appearance of the resource

except through the elimination of the usual and expected effects of weathering. Ordinary maintenance does not constitute work for the purposes of this Ordinance.

- M. "Proposed Historic District" means an area, or group of areas not necessarily having contiguous boundaries, that has delineated boundaries and that is under review by a committee or a standing committee for the purpose of making a recommendation as to whether it should be established as a historic district or added to an established historic district.
- N. "Repair" means to restore a decayed or damaged resource to good or sound condition by any process. A repair that changes the external appearance of a resource constitutes work for the purposes of this Ordinance.
- O. "Resource" means one or more publicly or privately owned historic or non-historic buildings, structures, sites, objects, features, or open spaces located within a historic district.
- P. "Work" means construction, addition, alteration, repair, moving, excavation, or demolition. (Ord. 07-04 adopted 2-20-07)

1280.03 ESTABLISHING ADDITIONAL, MODIFYING, OR ELIMINATING HISTORIC DISTRICTS

- A. The City Council may at any time establish by ordinance additional historic districts, including proposed districts previously considered and rejected, may modify boundaries of an existing historic district, or may eliminate an existing historic district. Before establishing, modifying, or eliminating a historic district, a historic district study committee appointed by the City Council shall follow the procedures as stated in Section 399.203 (1-3) of Public Act 169 of 1970, as amended. To conduct these activities, the City Council may retain the initial committee, establish a standing committee, or establish a committee to consider only specific proposed districts and then be dissolved. The committee shall consider any previously written committee reports pertinent to the proposed action.
- B. In considering elimination of a historic district, a committee shall follow the procedures set forth in Section 399.203 (1-3) of Public Act 169 of 1970, as amended for the issuance of a preliminary report, holding a public hearing, and issuing a final report but with the intent of showing one or more of the following:
 1. The historic district has lost those physical characteristics that enabled the establishment of the district.
 2. The historic district was not significant in the way previously defined.
 3. The historic district was established pursuant to defective procedures.
 (Ord. 07-04 adopted 2-20-07)

1280.04 THE HISTORIC DISTRICT COMMISSION

The City Council may establish by ordinance a commission to be called a historic district commission. The Commission may be established at any time, but not later than the time the first historic district is established. Each member of the Commission shall reside within the city limits. Members shall be appointed by the City Council. The Commission shall consist of seven (7) members. Two (2) members shall be appointed from a list submitted by duly organized local historic preservation organizations. If such a person is available for appointment, one member shall be an architect who has two years of architectural experience or who is duly registered in the State of Michigan. A majority of the members shall have a clearly demonstrated interest in or knowledge of historic preservation. Members shall be appointed for a term of three (3) years, except the initial appointments of three (3) members for a term of two (2) years and two (2) members for a term of one year. Subsequent appointments shall be for three-year terms. Members shall be eligible for reappointment. In the event of a vacancy on the Commission, interim appointments shall be made by the City Council within sixty (60) calendar days to complete the unexpired term of such position.

The City Council may prescribe powers and duties of the Commission, in addition to those prescribed in this Ordinance, that foster historic preservation activities, projects, and programs in the local unit. (Ord. 07-04 adopted 2-20-07)

1280.05 HISTORIC DISTRICT COMMISSION MEETINGS, RECORD KEEPING & RULES OF PROCEDURE

- A. The Historic District Commission shall meet at least quarterly or more frequently at the call of the Commission.
- B. The business that the Commission may perform shall be conducted at a public meeting held in compliance with the Open Meetings Act, Public Act 267 of 1976, as amended. Public notice of the date, time, and place of the meeting shall be given in the manner required by Public Act 267. A meeting agenda shall be part of the notice and shall include a listing of each permit application to be reviewed or considered by the Commission.
- C. The Commission shall keep a record of its resolutions, proceedings and actions. A writing prepared, owned, used, in the possession of, or retained by the Commission in the performance of an official function shall be made available to the public in compliance with the Freedom of Information, Public Act 442 of 1976, as amended.
- D. The Commission shall adopt its own rules of procedure and shall adopt design review standards and guidelines to carry out its duties under this act. (Ord. 07-04 adopted 2-20-07)

1280.06 DELEGATION OF MINOR CLASSES OF WORK

The Commission may delegate the issuance of Certificates of Appropriateness for specified minor classes of work to its staff, or to another delegated authority. The Commission shall provide to its delegated authority specific written standards for issuing Certificates of Appropriateness under this subsection. The Commission shall review the Certificates of

Appropriateness issued by the delegate on at least a quarterly basis to determine whether or not the delegated responsibilities should be continued. (Ord. 07-04 adopted 2-20-07)

1280.07 ORDINARY MAINTENANCE

Nothing in this Ordinance shall be construed to prevent ordinary maintenance or repair of a resource within a historic district or to prevent work on any resource under a permit issued by the inspector of buildings or other duly delegated authority before the Ordinance was enacted. (Ord. 07-04 adopted 2-20-07)

1280.08 REVIEW BY THE COMMISSION

The Commission shall review and act upon only exterior features of a resource and shall not review and act upon interior arrangements unless specifically authorized to do so by the City Council or unless interior work will cause visible change to the exterior of the resource. The Commission shall not disapprove an application due to considerations not prescribed in subsection 399.205 (3) of Public Act 169 of 1970, as amended. (Ord. 07-04 adopted 2-20-07)

1280.09 DESIGN REVIEW STANDARDS AND GUIDELINES

- A. In reviewing plans, the Commission shall follow the U.S. Secretary of Interior's *Standards for Rehabilitation* and guidelines for rehabilitating historic buildings as set forth in 36 C.F.R. part 67. Design review standards and guidelines that address special design characteristics of historic districts administered by the Commission may be followed if they are equivalent in guidance to the Secretary of Interior's *Standards* and guidelines and are established or approved by the State Historic Preservation Office of the Michigan Historical Center.
- B. In reviewing plans, the Commission shall also consider all of the following:
1. The historic or architectural value and significance of the resource and its relationship to the historic value of the surrounding area.
 2. The relationship of any architectural features of the resource to the rest of the resource and to the surrounding area.
 3. The general compatibility of the design, arrangement, texture, and materials proposed to be used.
 4. Other factors, such as aesthetic value, that the commission finds relevant.
- (Ord. 07-04 adopted 2-20-07)

1280.10 PERMIT APPLICATIONS

- A. A permit shall be obtained before any work affecting the exterior appearance of a resource is performed within a historic district. The person, individual, partnership, firm, corporation, organization, institution, or agency of government proposing to do that work shall file an application for a permit with the building inspector. Upon receipt of a complete application, the inspector of buildings shall immediately refer the application, along with all required supporting materials that make the application complete to the Commission. A permit shall not be issued and proposed work shall not proceed until the Commission has acted on the application by issuing a Certificate of Appropriateness or a Notice to Proceed as prescribed in this Ordinance.

- B. The Commission shall file Certificates of Appropriateness, Notices to Proceed, and Denials of applications for permits with the inspector of buildings. A permit shall not be issued until the Commission has acted as prescribed by this Ordinance.
- C. If an application is for work that will adversely affect the exterior of a resource the Commission considers valuable to the City of Manistee, the state of Michigan, or the nation, and the Commission determines that the alteration or loss of that resource will adversely affect the public purpose of the city, state, or nation, the Commission shall attempt to establish with the owner of the resource an economically feasible plan for the preservation of the resource.
- D. The failure of the Commission to act on an application within sixty (60) calendar days after the date a complete application is filed with the Commission, unless an extension is agreed upon in writing by the applicant and the Commission, shall be considered to constitute approval.
- E. The Commission may charge a reasonable fee to process a permit application. (Ord. 07-04 adopted 2-20-07)

1280.11 DENIALS

If a permit application is denied, the decision shall be binding on the building inspector. A Denial shall be accompanied by a written explanation by the Commission of the reasons for denial and, if appropriate, a notice that an application may be re-submitted for Commission review when the suggested changes have been made. The Denial shall also include the notification of the applicant's right to appeal to the State Historic Preservation Review Board and to the circuit court. (Ord. 07-04 adopted 2-20-07)

1280.12 NOTICE TO PROCEED

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

- A. The resource constitutes a hazard to the safety of the public or to the structure's occupants.
- B. The resource is a deterrent to a major improvement program that will be of substantial benefit to the community and the applicant proposing the work has obtained all necessary planning and zoning approvals, financing, and environmental clearances.
- C. Retaining the resource will cause undue financial hardship to the owner when a governmental action, an act of God, or other events beyond the owner's control created the hardship, and all feasible alternatives to eliminate the financial hardship, which may include offering the resource for sale at its fair market value or moving the resource to a vacant site within the historic district, have been attempted and exhausted by the owner.

- D. Retaining the resource is not in the interest of the majority of the community. (Ord. 07-04 adopted 2-20-07)

1280.13 APPEAL OF A COMMISSION DECISION

- A. An applicant aggrieved by a decision of the Commission concerning a permit application may file an appeal with the State Historic Preservation Review Board. The appeal shall be filed within sixty (60) calendar days after the decision is furnished to the applicant. The appellant may submit all or part of the appellant's evidence and arguments in written form. The State Historic Preservation Review Board shall consider an appeal at its first regularly scheduled meeting after receiving the appeal. A permit applicant aggrieved by the decision of the State Historic Preservation Review Board may appeal the decision to the circuit court having jurisdiction over the historic district commission whose decision was appealed to the State Historic Preservation Review Board.
- B. Any citizen or duly organized historic preservation organization in the City of Manistee, as well as resource property owners, jointly or severally aggrieved by a decision of the historic district commission may appeal the decision to the circuit court, except that a permit applicant aggrieved by a decision rendered under this Ordinance may not appeal to the court without first exhausting the right to appeal to the State Historic Preservation Review Board. (Ord. 07-04 adopted 2-20-07)

1280.14 WORK WITHOUT A PERMIT

When work has been done upon a resource without a permit, and the Commission finds that the work does not qualify for a Certificate of Appropriateness, the Commission may require an owner to restore the resource to the condition that the resource was in before the inappropriate work or to modify the work so that it qualifies for a Certificate of Appropriateness. If the owner does not comply with the restoration or modification requirement within a reasonable time, the Commission may seek an order from the Circuit Court to require the owner to restore the resource to its former condition or to modify the work so that it qualifies for a Certificate of Appropriateness. If the owner does not comply or cannot comply with the order of the Court, the Commission or its agents may enter the property and conduct work necessary to restore the resource to its former condition or modify the work so that it qualifies for a Certificate of Appropriateness in accordance with the court's order. The costs of the work done shall be charged to the owner, and may be levied by the City of Manistee as a special assessment against the property. When acting pursuant to an order of the Circuit Court, the Commission or its agents may enter a property for purposes of this section. (Ord. 07-04 adopted 2-20-07)

1280.15 DEMOLITION BY NEGLECT

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

- A. Require the owner of the resource to repair all conditions contributing to demolition by neglect.

- B. If the owner does not make repairs within a reasonable time, the Commission or its agents may enter the property and make such repairs as necessary to prevent Demolition by Neglect. The costs of the work shall be charged to the owner, and may be levied by the City of Manistee as a special assessment against the property. The Commission or its agents may enter the property for purposes of this section upon obtaining an order from the Circuit Court. (Ord. 07-04 adopted 2-20-07)

1280.16 REVIEW OF WORK IN PROPOSED DISTRICTS

Upon receipt of substantial evidence showing the presence of historic, architectural, archaeological, engineering, or cultural significance of a proposed historic district, the City Council may, at its discretion, adopt a resolution requiring that all applications for permits within the proposed historic district be referred to the Historic District Commission as prescribed in Section 11 of the Ordinance. The Historic District Commission shall review permit applications with the same powers that would apply if the proposed historic district was an established historic district. The review may continue in the proposed historic district for not more than one year, or until such time as the City Council approves or rejects the establishment of the historic district by ordinance, whichever occurs first. (Ord. 07-04 adopted 2-20-07)

1280.17 EMERGENCY MORATORIUM

If the City Council determines that pending work will cause irreparable harm to resources located within an established or proposed historic district, the City Council may by resolution declare an emergency moratorium on all such work for a period not to exceed six (6) months. The City Council may extend the emergency moratorium for an additional period not to exceed six (6) months, upon finding that the threat of irreparable harm to resources is still present. Any pending permit application concerning a resource subject to an emergency moratorium may be summarily denied. (Ord. 07-04 adopted 2-20-07)

1280.18 PENALTIES FOR VIOLATIONS

- A. Whoever violates any provision of this Chapter is guilty of a Civil Infraction in accordance with Section 202.99.
- B. A person, individual, partnership, firm, corporation, organization, institution, or agency of government that violates this act may be ordered by the Court to pay the costs to restore or replicate a resource unlawfully constructed, added to, altered, repaired, moved, excavated or demolished. (Ord. 07-04 adopted 2-20-07)

1280.19 ACCEPTANCE OF GIFTS OR GRANTS

The City Council may accept state or federal grants for historic preservation purposes; may participate in state and federal programs that benefit historic preservation, and may accept public or private gifts for historic preservation purposes. The City Council may appoint the Historic District Commission to accept and administer grants, gifts, and program responsibilities. (Ord. 07-04 adopted 2-20-07)

1280.20 ACQUISITION OF HISTORIC RESOURCES

If all efforts by the Commission to preserve a resource fail, or if it is determined by the City Council that public ownership is most suitable, the City Council, if considered to be the public interest, may acquire the resource using public funds, public or private gifts, grants or proceeds from the issuance of revenue bonds. The acquisition shall be based upon the recommendation of the Commission. The Commission is responsible for maintaining publicly owned resources using its own funds, if not specifically designated for other purposes, or public funds committed for that use by the City Council. Upon recommendation of the Commission, the City may sell resources acquired under this section with protective easements included in the property transfer documents, if appropriate. (Ord. 07-04 adopted 2-20-07)

1280.21 HISTORIC DISTRICT BOUNDARY

Manistee Commercial Historic District:

The District is in two sections separated by the Manistee River. The southern section boundary follows the south bank of the Manistee River from Division Street on the East to the Municipal Marina on the West, south along the eastern boundary of the Marina to the centerline of River Street, west along the centerline of River Street to the centerline of Pine Street, south along the centerline of Pine Street, to the centerline of Water Street; east along Water Street to the centerline of Oak Street; south on Oak Street to the south property line of 427 Water Street; east along the south property line to the east property line of 427 Water Street, north along the east property line of 427 Water Street across Water Street and north along the west property line of 414 Water Street to the alley ½ block south of River Street; east along the alley to the west property line of 70 Maple Street, south along the property line to the centerline of Water Street, east along Water Street to the centerline of Maple Street, south along Maple Street to the south property line of the Ramsdell Theater, east along that property line to the east property line of the Ramsdell Theater, North along the east property line to the north line of First Street, north along the mid-block line halfway between Maple and Poplar Streets, to the rear line of River Street Buildings, east along the rear of River Street buildings to Greenbush Street, north along the Greenbush Street centerline to Filer Street, east along the centerline of Filer Street to the east property line of 341 River Street, north to the south property line of 339 River Street, east along the south property line of 337 River Street to the alley, thence easterly along the south line of the alley to the west property line 50 Filer Street, south along the west property line of 50 Filer Street to the centerline of Filer Street, east along the centerline of Filer Street to the centerline of Division Street and North to the south river bank. The northern section boundary follows the west side of Washington Street, from the north bank of the Manistee River to Second Avenue to a depth of ½ block west of the street centerline, and the east side of Washington Street from the south property line of the properties at 129 – 133 Washington North to Lincoln Street, east to the rear property lines of the buildings fronting on Washington Street. The north and south sections of the district are joined by the Maple Street Bascule Bridge over the Manistee River. (Ord. 07-04 adopted 2-20-07)

1280.22 FEES

There shall be imposed pursuant to these sections various fees, as established from time to time by the City Council by resolution which Fee Schedule is incorporated herein by reference. (Ord. 07-04 adopted 2-20-07)

1280.99 PENALTY

Whoever violates any provision of this chapter is guilty of a civil infraction in accordance with Section 202.99. (Ord. 07-04 adopted 2-20-07)