

19B. HERITAGE PRESERVATION

19B.01. Statement of Legislative Intent. Subdivision 1. The Common Council of the City of Rochester hereby declares as a matter of public policy that the preservation, protection, perpetuation, promotion and use of Buildings, Structures, Sites, and Objects having a special historical, community, or aesthetic interest or value is a public interest and is a worthy pursuit in the interest of our community's general welfare. To this end, the Heritage Preservation Commission is charged with responsibility for facilitating the preservation of Rochester's heritage. The purposes of this chapter are to:

- A. Safeguard the heritage of the City by encouraging the preserving of properties that reflect elements of the city's cultural, social, economic, political, visual, or architectural history;
- B. Enhance the City's appeal and attraction to residents, visitors, and tourists while promoting its economic viability through the protection and promotion of its unique character as related to its history and heritage;
- C. Enhance the visual and aesthetic character, diversity, and interest in the City through attention to historic properties;
- D. Foster civic pride in the beauty and notable accomplishments of the past;
- E. Promote the preservation and continued use of historic properties for the education and general welfare of the people of the City;
- F. Promote the environmental benefits of adapting and reusing buildings; and
- G. Provide educational opportunities for heritage preservation, act in an advisory capacity to its citizens, and reflect the history of the many groups that make up the City's rich heritage.

Subd. 2. By the adoption of this chapter, the City intends to draw a reasonable balance between private property rights and the public interest in preserving the City's cultural, social, economic, religious, political, architectural and aesthetic history.

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19B.02. Heritage Preservation Commission Established. Subdivision 1. There is hereby established a City of Rochester Heritage Preservation Commission to enforce and carry out the rights, responsibilities, and privileges provided in this chapter.

Subd. 2. The Commission shall consist of 11 voting members to be nominated by the Mayor and appointed by the Council. Commission members must be persons with demonstrated interest and expertise in historic preservation and must reside within the City. The Commission shall include, if available, a member of the Olmsted County Historical Society. Demonstrated interest and expertise may include experience and interest in a variety of vocations and fields that may be engaged in historic preservation efforts and issues, including, without limitation, architecture, construction, legal, real estate, and economic development.

Subd. 3. Commission members shall serve staggered three-year terms.

- A. Upon creation of the Commission, four members will be appointed for a term of three years each. Four members will be appointed for a term of two years each. Three members will be appointed for a term of one year each. Each initial term of office shall expire on December 31st of the year the term is scheduled to expire. All subsequent appointments will be made for three year terms. All members shall serve until their successors have been appointed and qualified.
- B. Within 45 days of a vacancy, the Mayor shall nominate a successor for approval by the Council to fill the unexpired term of the office. If a vacancy occurs in a term with less than 45 days remaining, the Mayor may allow the term to expire without nominating a successor.

Subd. 4. Members will not receive a salary for their services, but may be compensated for any approved expenses incurred in the performance of their duties in accordance with guidelines established by the Council.

Subd. 5. The Commission shall meet at least four times a year. The Commission shall hold its first meeting within 45 days after the day this chapter becomes effective. At the first meeting, the members shall adopt rules concerning the following business:

- A. Time, dates, and places of future meetings;

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- B. Election of Officers; and
- C. Voting and quorum requirements.

Subd. 6. The Commission shall elect from its members such officers as it may deem necessary. The Commission shall have the power to designate and appoint from its members various committees. The Commission shall make such rules as it may deem advisable and necessary for the conduct of its affairs and for the purpose of carrying out the intent of this chapter.

Subd. 7. Effective Date. Subdivisions 2 and 3 of this section become effective for those appointments made on and after the date this ordinance takes effect. It is the intent of this subdivision to allow members of the Commission serving terms of office at the time this ordinance takes effect to complete their appointed terms of office.

19B.03. Commission Duties. Subdivision 1. Following its establishment, the Commission shall provide recommendations and consultation to the City for adoption and administration of the Heritage Preservation Program.

Subd. 2. The Commission shall have the following additional duties:

- A. Ensure that there is an updated list of all Buildings, Structures, Sites, or Landmark Districts which have been designated as Designated Properties; and
- B. Recommend the allocation of such subsidies, tax abatement, grants, revolving loan funds, and other funds that may be provided by the City pursuant to the Heritage Preservation Program.

19B.04. Definitions. Subdivision 1. For purposes of this chapter, the following terms shall have the following meanings.

Subd. 2. The term “Alter” or “Alteration” shall mean a change to the exterior of an existing Building, Structure, or feature that materially modifies its original appearance or construction.

Subd. 3. The term “Assigned Staff” shall mean a member of the City’s staff designated to serve as the staff contact person for this chapter and for the Heritage Preservation Commission.

Subd. 4. The term “Building” shall mean any Structure having a roof supported by columns or walls intended for the shelter or enclosure of persons or property. When roofed structures are separated from each other by party walls having no openings for

passage, each portion so separated shall be deemed a separate Building.

Subd. 5. The term “Certificate of Economic Hardship” shall mean an approval issued pursuant to section 19B.13.

Subd. 6. The term “City” means the City of Rochester, Minnesota.

Subd. 7. The term “Commission” shall mean the Heritage Preservation Commission.

Subd. 8. The term “Contributing Resource” shall mean a Building, Site, Structure, or Object that adds to the historic architectural qualities or archaeological values for which a property or Landmark District is considered significant.

Subd. 9. The term “Council” shall mean the City of Rochester Common Council.

Subd. 10. The term “Demolition” shall mean any act or process that destroys in part or in whole a historic resource. This includes the removal of any material constituting part of a structure that affects the exterior appearance of the structure, other than for purposes of ordinary maintenance or repair, as well as inadequate maintenance or any other action that reduces the stability or longevity of a structure or impairs its historic or architectural integrity.

Subd. 11. The term “Demolition By Neglect” means the long-term neglect of a historic structure that contributes to a level of dilapidation so severe that rehabilitation of the structure no longer serves as a viable option and Demolition must be considered on account of the public health, safety and welfare.

Subd. 12. The term “Demolition Permit” shall mean a building permit that authorizes the demolition or removal of an existing Building or Structure from a site. This permit is issued in accordance with the requirements of Minnesota Rule 1300.0120.

Subd. 13. The term “Designated Property” shall mean a property listed on the Inventory, and further categorized as either a Landmark Property, Potential Landmark Property, or Landmark District.

Subd. 14. The term “Heritage Preservation Program” shall mean a plan established by the City that contemplates a vision for the City's historic preservation program, setting near- and long-term priorities for the program, and identifies proactive and innovative strategies for achieving the identified goals and objectives.

Subd. 15. The term “Historic Data” shall mean research papers, surveys, and maps that describe Rochester's architectural and cultural development patterns in the context of local, regional, and national history.

Subd. 16. The term “Integrity” shall mean the ability of a property to convey its significance relative to the aspects of location, setting, design, materials, workmanship and association.

Subd. 17. The term “Inventory” shall mean a comprehensive listing of all Landmark Districts, Landmark Properties, and Potential Landmark Properties.

Subd. 18. The term “Landmark District” shall mean a geographically-definable area, possessing identified historically significant concentration, linkage, or continuity of a Site, Building, Structure, or Object united by past events or aesthetically by plan or physical development.

Subd. 19. The term “Landmark Property” shall mean a property designated pursuant to section 19B.08.

Subd. 20. The term “Landmark Property Demolition Permit” or “LPDP” shall mean a permit issued pursuant to section 19B.12.

Subd. 21. The term “Land Development Manual” shall mean chapters 60 through 65, inclusive, of the Rochester Code of Ordinances.

Subd. 22. The term “Non-Contributing Resource” shall mean a Building, Site, Structure, or Object that does not contribute to the historic architectural qualities or archaeological values for which a Landmark District is considered significant.

Subd. 23. The term “Object” shall mean construction other than a Building or Structure that are primarily artistic in nature or small in scale and simply constructed. It may be by nature or design movable, but it is associated with a specific setting and environment.

Subd. 24. The term “Potential Landmark Property” shall mean a property designated pursuant to section 19B.14.

Subd. 25. The term “Rehabilitation” shall mean making a Building or Structure sound and usable without attempting to restore it to a particular period appearance while retaining the character-defining features.

Subd. 26. The term “Relocation” shall mean moving a Building or Structure from its original historically significant or existing location to another location.

Subd. 27. The term “Repair” shall mean the limited replacement in kind--or with compatible substitute material--of extensively deteriorated or missing parts of features when there are surviving prototypes (for example, brackets, dentils, steps, plaster, or portions of slate or tile roofing).

Subd. 28. The term “Restore” shall mean the act or process of accurately

depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period.

Subd. 29. The term “Significance” shall mean the documented importance of a property for its contribution to or representation of broad patterns of national regional or local history, architecture, engineering, archaeology and culture.

Subd. 30. The term “Site” shall mean the location of a significant event, a prehistoric or historic occupation or activity or a Building or Structure, whether standing, ruined or vanished, where the location itself possesses historic, cultural or archaeological value regardless of the value of any existing Structure.

Subd. 31. The term “Standards” shall mean the Secretary of the Interior’s Standards for Treatment of Historic Properties.

Subd. 32. The term “Structure” shall mean a combination of materials to form construction for use, occupancy, or ornamentation, whether installed on, above, or below the surface of land or water.

19B.05. Identification of Historic Properties. Subdivision 1. The Commission shall conduct, cause to be conducted, or accept submittals of such preliminary surveys, studies or investigations as deemed necessary or advisable to adequately inform the Commission and the Council of a property and district located within the City which are significant. The documents generated and collected as a result of these efforts shall be recognized as the Historic Data and be made publicly available. The Commission shall utilize the Historic Data for determining the eligibility and designation of a district and property.

Subd. 2. Historic Data shall be used to guide staff, the Commission, and the Council in determining the historic significance of districts and properties in the City. Historic Data shall include the Historic Context Paper accepted by the Commission and Council on April 6, 2015, as the same may be amended or modified from time to time.

Subd. 3. A list of Designated Properties and an updated catalogue of all known publications, articles, books, pamphlets, policies, or other materials having a direct bearing on the Heritage Preservation Program shall be kept and made available to the public.

19B.06. Miscellaneous. Subdivision 1. The limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a restoration project. All such work must meet the Standards.

Subd. 3. The purpose of the Assigned Staff shall be to meet with the Commission and to provide information at public meetings regarding proposed land use

applications, building permits and the nature of the property subject to this chapter.

Subd. 4. Designated Properties are eligible for and have priority to participate in City incentive programs related to financial, developmental or technical assistance that will serve to preserve, maintain or enhance their historic and architectural character.

19B.07. Establishment of the Rochester Inventory of Designated Property. Subdivision 1. The Inventory is a comprehensive listing of all Landmark Districts, Landmark Properties, and Potential Landmark Properties. The Inventory is intended to recognize a District, Building, Structure, Land, Site and Object located in the City that has special significance to the United States, Minnesota, or the City's history, architecture, archaeology, engineering or culture. The location of a property listed on the Inventory shall be designated on maps on file with the City Clerk.

Subd. 2. Following the Council's adoption of an ordinance designating a property on the Inventory, the City Clerk shall record with the real estate records of Olmsted County a certified copy of the ordinance including a legal description of the property.

19B.08. Designation of Landmark Property or Landmark District. Subdivision 1. The Commission shall designate a Building, Site, Structure, or Object, or any collection thereof, as a Landmark Property or Landmark District when the Commission determines, after receiving and considering testimony received at a public hearing and applying the criteria found in subdivision 2, that the property is so essential to the historic fabric of the City and has a demonstrated quality of significance that preservation must be mandated regardless of a property owner's consent shall be designated as a Landmark Property or Landmark District. The Landmark Property or Landmark District designation shall occur by ordinance. A Landmark Property or Landmark District is subject to the terms of this chapter. A Landmark Property or Landmark District shall be eligible for certain preservation benefits and may be awarded preservation incentives pursuant to the Heritage Preservation Program. All individual properties listed on the National Register of Historic Places receive automatic Landmark Property designation. Designation decisions made by the Commission may be appealed to the Council.

Subd. 2. In designating a Building, Land, Site, Structure, or Object, or any collection thereof, as a Landmark Property or Landmark District, the Council must consider the following criteria:

- A. Its character, interest, or value as part of the development, heritage, or cultural characteristics of the City, State or United States;
- B. Its location as a place of a significant historic event;
- C. Its location within and contribution as an element of a Landmark District;

- D. Its identification with a person who significantly contributed to the culture and development of the City;
- E. Its embodiment of distinguishing characteristics of an architectural style period, form, or treatment;
- F. Its identification as the work of an architect or master builder whose individual efforts have influenced the development of the City or have contributed to the development of a nationally or internationally-recognized style or movement;
- G. Its embodiment of elements of architectural design, detail, material, or craftsmanship that represent a significant architectural innovation; and,
- H. Its location, scale, or other physical characteristics representing an established and familiar visual feature or a neighborhood, a district, the community, or the City.

Subd. 3. For a Landmark District designation, in addition to the criteria found in subdivision 2, the majority of the Contributing Resource in the proposed Landmark District must also satisfy the following criteria:

- A. The Landmark District is deemed significant for its antiquity; and,
- B. The Landmark District possesses an appropriate degree of integrity of location, setting, design, materials, workmanship, and association given its age. The Council shall adopt and make available to the public score sheets and other devices which shall be used by the Council in applying this criteria.

Subd. 4. The property owner, the Commission, the Council, or any member of the general public may file an application for a Landmark Property or Landmark District designation. An application fee may be established by resolution adopted by the Council. The application shall include the following:

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- A. The applicable information required by this section;
- B. Landmark Property or Landmark District boundary map;
- C. Property or district description, including narrative text, photographs or other graphic materials that document its physical characteristics;
- D. Written description of how the property meets the criteria for designation;
- E. Written description of historic preservation benefits which the applicant requests be awarded at the time of designation pursuant to the Historic Preservation Program; and,
- F. For a Landmark District, a list of Contributing and non-Contributing Resource.

Subd. 5. An application for a Landmark Property or Landmark District designation shall be submitted to the State Historic Preservation Office of the Minnesota Historical Society for a 60-day review period. The State Historic Preservation Office's non-binding comments shall be sent to the Commission for its review.

Subd. 6. If the Commission denies an application submitted by a property owner or a member of the general public, the applicant may file an appeal with the Council. A fee for an appeal may be established by resolution adopted by the Council.

Subd. 7. Assigned Staff is authorized to reject any incomplete application.

19B.09. Removal of Landmark Property or Landmark District Designation.
Subdivision 1. An application for the removal of a Landmark Property or Landmark District from the Inventory shall follow the same submission requirements and review procedures as for designation described in this chapter, except that the application shall include an explanation describing why the property no longer meets the criteria for designation as a Landmark Property or Landmark District. After a public hearing on the matter, the Commission shall determine if sufficient evidence exists showing the property no longer meets the criteria for designation. If so, the Commission shall remove the property from the Inventory. Removal decisions made by the Commission may be appealed to the Council.

Subd. 2. If a request for rescinding designation is denied, an application cannot be filed again for a period of two years from the date of the denial by the Council. The Council may waive this time limitation.

19B.10. Standards and Benefits. The Commission shall follow the Standards to preserve and maintain the historic and architectural character of a Designated Property and Landmark District. The Standards apply to the exterior features and/or notable streetscape and landscape elements of the designated historic property and/or district. The Standards are intended to offer assistance to property owners undertaking construction, Rehabilitation, Alteration, changes in exterior appearance or any other development involving a designated Landmark Property or Landmark District.

19B.11. Development Involving Landmark Property or Landmark District. Subdivision 1. Except as provided in subdivision 2, no Building or Structure shall be erected, constructed, enlarged, altered, repaired, relocated or improved involving, and no building permit issued for, a Landmark Property or within a Landmark District until plans or sufficient information have been submitted to the Assigned Staff and approval is granted by the Council after receiving and considering a recommendation of the Commission.

Subd. 2. Exempt Activities.

- A. Exempt activities include interior remodeling, paint color selection, exterior repainting or replastering similar to the existing finish or routine maintenance such as caulking, replacement of fasteners, repair of window glazing or other such minimally intrusive work.
- B. If there is any question if a work activity qualifies as exempt, the Commission shall make the determination as to its status.

Subd. 3. In an emergency situation where immediate repair is needed to protect the safety of a Building or Structure and its inhabitants, the City Administrator and City building official may approve the permit without prior Commission action.

19B.12. Demolition of Landmark Property Permit. Subdivision 1. It is the intent of this chapter to preserve the historic and architectural resources that have demonstrated significance to the community. Consequently, an application for a Demolition Permit that would allow for the Demolition of a Landmark Property must be accompanied by a Landmark Property Demolition Permit issued by the Council.

Subd. 2. The procedure for considering an application for a LPDP is as follows:

- A. An application for a LPDP will be filed with the Assigned Staff. The applicant will be provided a written response within fourteen days of the request describing the submittal materials

needed for consideration.

- B. An application for a LPDP shall include the following:
 - (1) The general application information requested in section 19B.08, subd. 3 and written documentation that the Building is an imminent hazard; or
 - (2) Narrative text, graphic illustrations or other exhibits that provide evidence that the Building, Structure, or Object is of no historic or architectural value or importance.
- C. When complete application materials are on file and a staff report is prepared analyzing the request based on the required criteria in subdivisions 3 and 4 of this subdivision, the Commission shall hold a public hearing to determine its recommendation as to whether the application should be approved.

Subd. 3. The LPDP permit application shall be approved if it is demonstrated that the application meets any one of the following criteria:

- A. The property has been determined by the City to be an imminent hazard to public safety and the owner/applicant is unable to make the needed repairs in a timely manner;
- B. The Structure is not structurally sound; or
- C. No documentation exists to support or demonstrate that the property has historic, architectural, archaeological, engineering or cultural significance.

Subd. 4. In addition to the criteria found in subdivision 3, the LPDP permit application shall be approved if it is demonstrated that the application meets all of the following criteria:

- A. The Structure does not contribute to the significance of the parcel or Landmark District in which it is located;

- B. The loss of the Building, Structure or Object would not adversely affect the Integrity of the Landmark District or its historic, architectural or aesthetic relationship to adjacent designated properties; and,
- C. Demolition of the Structure will be inconsequential to the historic preservation needs of the area.

Subd. 5. The Commission shall recommend the LPDP application be approved, disapproved, approved with conditions or continued in order to obtain additional information necessary to consider the demolition request.

Subd. 6. If the Commission recommends the approval of the LPDP application, then a resolution of the Commission action will be forwarded to the Common Council for approval or denial.

Subd. 7. If the Commission recommends the denial of the LPDP, the applicant may appeal the recommendation or may resubmit the application after it obtains a Certificate of Economic Hardship.

19B.13. Certificate of Economic Hardship. Subdivision 1. It is the policy of the City to respect private property rights, and to comply with state and federal law. At the same time, it is the policy of the City to protect and preserve those Buildings, Structures, and Sites having a special historical, community, or aesthetic value to the community. In balancing those public and private interests, the City recognizes that there may be some circumstances in which the operation of this chapter could create an undue economic hardship. This provision is created to provide property owners with a means of demonstrating that such a hardship may exist and that they should be allowed to demolish a Designated Property because of that hardship.

Subd. 2. In order to obtain a Demolition Permit that would permit the Demolition of a Designated Property on the basis of an economic hardship, the applicant must obtain a Certificate of Economic Hardship. The Commission may recommend and the Council may approve a Certificate of Economic Hardship if one or more of the following criteria are met:

- A. A Building has lost its architectural and historical integrity and/or its removal will not adversely affect a Landmark District's historic character. Loss of integrity must be substantiated with photographic documentation and a physical description of the property that addresses relevant issues; or

- B. The denial of a Demolition Permit will result in an unreasonable economic hardship on the applicant as determined by the Council, with recommendation from the Commission, using the following criteria:
 - (1) The public safety and welfare requires the removal of a Structure or Building; and
 - (2) If the structural instability or deterioration of a property is demonstrated through a report by a structural engineer or architect. Such a report must clearly detail the property's physical condition, reasons why rehabilitation is not feasible, and cost estimates for rehabilitation versus demolition.

Subd. 3. In submitting a LPDP application, the burden of proof is on the applicant. In reviewing the application, the Commission and Council may consider economic hardship based on the following information:

- A. Current level of economic return;
- B. Amount paid for the property, date of purchase, party from whom purchased, and relationship between the owner of record, the applicant, and person from whom the property was purchased.
- C. Annual gross and net income from the property and the previous three years; itemized operating and maintenance expenses for the previous three years, and depreciation deduction and annual cash flow before and after debt service, if any, during the same period.
- D. Remaining balance on the mortgage or other financing secured by the property and annual debt services, if any during the prior three years.

- E. Real estate taxes for the previous four years and assessed value of the property according to the two most recent assessed valuations.
- F. All appraisals obtained within the last two years by the owner or applicant in connection with the purchase, financing, or ownership of the property.
- G. Form of ownership or operation of the property, whether sole proprietorship, for-profit or not-for-profit corporation, limited partnership, joint venture, or other.
- H. Any state or federal income tax returns relating to the property for the last two years.
- I. Any listing of the property for sale or rent, price asked, and offers received, if any, within the previous two years, including testimony and relevant documents regarding:
 - (1) Any real estate broker or firm engaged to sell or lease the property;
 - (2) Reasonableness of price or rent sought by the applicant; or
 - (3) Any advertisements placed for the sale or rental of the property.
- J. Feasibility of alternative uses for the property that could earn a reasonable economic return.
- K. Report from an architect or structural engineer who meets professional qualifications established by the Standards as to the structural soundness of any Building on the property and its suitability for Rehabilitation.
- L. Cost estimates for the proposed construction, alteration, demolition, or removal, and an estimate of any additional costs that would be incurred to comply with the requirements for Rehabilitation.

- M. Estimated market value of the property:
 - (1) In its current condition;
 - (2) After completion of the proposed alteration or demolition; and
 - (3) After renovation of the existing property for continued use.
- N. Expert testimony or opinion on the feasibility of Rehabilitation or reuse of the existing Structure by an architect who meets professional qualifications established by the Standards.
- O. Data provided by the property owner showing economic hardship.

Subd. 4. A property owner should conduct routine maintenance and major repairs on a Designated Property in order to ensure their preservation. As such, a Certificate of Hardship cannot be issued to a property owner who has engaged in Demolition By Neglect. Additionally, no person shall commit Demolition by Neglect.

19B.14. Designation of Potential Landmark Property. Subdivision 1. The Commission shall compile a list of other properties that have not met the criteria for Landmark Property designation but have historic or potentially historic significance within the City and may be considered eligible for Landmark designation at a future date. All such properties shall be designated as Potential Landmark Property in the Inventory. A property owner of a Potential Landmark Property is encouraged to meet proactively with the Commission before undertaking development plans to receive preliminary feedback on appropriate development and benefits.

Subd. 2. To be eligible for designation on the Inventory as a Potential Landmark Property, the individual Building, Site, Structure or Object, or a collection thereof, must have a demonstrated quality of significance as determined by the criteria provided in section 19B.08, subd. 2. The Commission shall determine if the property should be designated as a Potential Landmark Property based on the designation criteria.

Subd. 3. The property owner, the Commission, the Council, or any member of the general public may file an application for designation of a Building, District, Site, Structure or Object as a Potential Landmark Property on the Inventory. The application shall be submitted to the Assigned Staff for review and recommendation. The application for the designation of a property or collection of properties shall include the following:

- A. The applicable information required by this

section;

- B. Site or Landmark District boundary map;
- C. Property or district description including narrative text photographs or other graphic materials that document its physical characteristics; and,
- D. Written description of how the property meets the criteria for designation.

19B.15. 60-Day Negotiation Period. Subdivision 1. The purpose of the 60-Day negotiation period is meet with the property owner to discuss the Heritage Preservation Program and benefits that the property may be eligible to receive upon designation as a Designated Property. If the owner of a Potential Landmark Property submits a land use application, a negotiation period of up to 60 days shall be initiated. The 60 negotiation period may be extended an additional 30 days upon a resolution adopted by the Council, or longer if mutually acceptable to both the Council and the property owner. Nothing herein shall prevent the City from reviewing any land use application or building permit affecting the subject property during the 60-day negotiation period.

Subd. 2. Within the 60-day negotiation period the following shall occur:

- A. The Assigned Staff Person or other City staff shall offer to meet with the property owner to discuss the Heritage Preservation Program and benefits that the property may be eligible to receive upon designation as a Landmark Property.
- B. The Assigned Staff shall meet with the Commission regarding the proposed application and the nature of the property. The property owner shall be provided notice of this meeting. The Commission shall review appropriate context papers to evaluate the Integrity of the property under consideration and shall provide Council with an assessment of the property's conformance with the designation criteria. When any benefits are requested by the property owner, the Commission shall also evaluate how the designation, and any development that is concurrently proposed, meets the policy objectives for the Historic Preservation Program.

- C. The Assigned Staff shall confer with the Council regarding the proposed application and the nature of the property, the staff's and the Commission's assessment of its historic significance, and the effects of the application. The property owner shall be provided notice of this meeting.
- D. The Assigned Staff will negotiate with the property owner to reach a mutually acceptable agreement for the preservation of the property in exchange for the benefits made available to the property owner. The Council shall consider the appropriateness and availability of incentives, and shall also seek to be equitable in the incentives awarded through the negotiation process. The monetary value of incentives being requested shall be defined to the extent possible. When incentives are agreed upon as part of the negotiation, the Council shall require that the property be a Landmark Property or carry other restrictions as determined by the Council.
- E. If upon the passage of 60 days or any extension thereof, the City and the property owner have failed to reach a mutually acceptable agreement, affected land use applications shall proceed to be processed as applications without further delay. The Council, or the property owner, may choose to terminate negotiations at any time.

Subd. 3. This section is intended to be consistent with Minn. Stat. §15.99.

19B.16. Removal of Potential Landmark Designation. The owner of a Potential Landmark Property may apply to the Commission for removal of the Potential Landmark Property designation by providing evidence that the property does not meet criteria for designation as a Landmark Property. After conducting a public hearing, if the Commission determines that the property should be removed from the Potential Landmark Property map, the Assigned Staff shall issue the owner a certificate documenting the removal of the Potential Landmark Property designation. The subject property shall not be eligible for historic designation in the City for a period of two years from the date of issuance of this certificate. The certificate shall run with the land and may be recorded in Olmsted County.

19B.17. Notice and Public Hearings. Subdivision 1. An application for designation on the Inventory shall be transmitted to the Assigned Staff to determine if the application is complete. For a complete application, a report will be prepared by Assigned Staff for transmittal to the Commission with the relevant information on the proposed historic property or district with a recommendation to approve or disapprove, and the reasons for the recommendation.

Subd. 2. A date for a public hearing on a complete application will be scheduled before the Commission. Notice of the hearing shall be provided not less than 15 days before the hearing in a newspaper of general circulation. For Districts, notice of the hearing shall be mailed to all owners of record of property located in whole or in part within 350 feet of the boundaries of the subject property not less than 15 days before the hearing.

Subd. 3. The Commission shall evaluate the application to determine if the property or district meets the criteria for designation. At the public hearing, the property owner, parties of interest and citizens shall have an opportunity to provide information about the property or district's eligibility for designation. The Commission may approve, disapprove, or continue the application to request additional information necessary to make a decision to approve or deny.

Subd. 4. If an application is denied, the Assigned Staff, the Commission or the Council may not file a reapplication for designation of the same property or district on the Inventory for two years from the date of the Council disapproval. Council may waive this prohibition.

19B.18. Heritage Preservation Properties – Incentives for Conservation and Preservation. Subdivision 1. The City is committed to providing support to property owners to assist their efforts to maintain, preserve and enhance their historic properties. Benefits to encourage good historic preservation practices by an owner of a Designated Property is an important aspect of Historic Preservation Program.

Subd. 2. Through grants or other sources of funding, the City may provide a historic marker of a standard design for any owner of a Landmark Property or property within a Landmark District who desires a marker to install on their Building. The City may also develop a marker or signage program to recognize designated Landmark Districts.

Subd. 3. The City may authorize funding sources to create a financial incentive program for purposes of encouraging owners of a Designated Property or property within a Landmark District to preserve their property for purposes of historic preservation. The Commission will advise the Council on organization and administration for any such local finance program.

Subd. 4. The Assigned Staff will provide guidance and assistance in applications

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for State and National tax credit programs.

19B.19. Appeals. All decisions by the Commission are appealable to the Council.

19B.20. Penalty. Any person violating this chapter is guilty of a misdemeanor. In addition, the Council may authorize the City Attorney to initiate any equitable proceeding against any person who constructs, alters, relocates, changes the appearance or demolishes a Landmark Property or property within a Landmark District in violation of this chapter. In addition, any person violating this chapter who receives a historic preservation benefit may have that benefit revoked.

(4104, 2/4/13; 4130, 9/16/13; 4143, 12/16/13; 4269, 12/5/16)