

CHAPTER 152: HISTORIC DISTRICT

Section

152.01	Preamble	152.14	Procedures for establishing, modifying or eliminating Historic Districts; resolutions; emergency moratorium on pending work
152.02	Short title		
152.03	Historic preservation; public purpose; local ordinances		
152.04	Definitions		
152.05	Historic districts, establishment; Study Committee, duties; preliminary reports, contents; hearing, notice; final report, recommendations; ordinances; availability of writings to public	152.99	Penalty
152.06	Historic District Commissions; creation; members, appointment, terms, vacancies; applicability of section		
152.07	Work affecting exterior appearance of historic resources; permit, application; certificate of appropriateness or notice; process fee; appeal of Commission=s decision; standards and guidelines; considerations, hearing; delegated authorities		
152.08	Grants and gifts; benefit programs		
152.09	Historic resources; acquisition		
152.10	County Historic District Commission; county jurisdiction, coordination; review of activities		
152.11	Filing of certificates of appropriateness, notices to proceed and denials of permit applications; binding decision appeals; records; uniform administration of chapter		
152.12	Construction of chapter		
152.13	Historic District Commission; decisions, appeal, exceptions		

' 152.01 PREAMBLE.

This chapter is enacted pursuant to the authority conferred by Public Act 169 of 1970, as amended, providing for the establishment of historic districts; the acquisition of certain resources structures for historic preservation purposes; the preservation of historic and nonhistoric resources; the maintenance of public owned resources and structures by local units and the establishment of historic commissions; to provide for certain assessments under certain circumstances; to provide for procedures; and to provide for remedies and penalties.
(Ord. 118, passed 2-26-1996)

' 152.02 SHORT TITLE.

This chapter shall be known and may be cited as the City of the Village of Clarkston Local Historic District Ordinance.
(Ord. 118, passed 2-26-1996)

**' 152.03 HISTORIC PRESERVATION;
PUBLIC PURPOSE; LOCAL ORDINANCES.**

(A) Historic preservation is declared to be a public purpose and the city may by ordinance regulate the construction, addition, alteration, repair, moving, excavation and demolition of resources in historic districts within the limits of the city.

(B) The purpose of the chapter shall be to do one or more of the following:

- (1) Safeguard the heritage of the local unit by preserving one or more historic districts in the city that reflect elements of the city=s history, architecture, archaeology, engineering or culture;
- (2) Stabilize and improve property values in each district and the surrounding areas;
- (3) Foster civic beauty;
- (4) Strengthen the local economy; and
- (5) Promote the use of historic districts for the education, pleasure and welfare of the citizens of the city and of the state.

(Ord. 118, passed 2-26-1996)

' 152.04 DEFINITIONS.

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

ALTERATION. Work that changes the detail of a resource but does not change its basic size or shape.

BUREAU. The Bureau of History of the State Department of State.

CERTIFICATE OF APPROPRIATENESS. The written approval of a permit application for work that is appropriate and that does not adversely affect a resource.

COMMISSION. A Historic District Commission created by the city pursuant to ' 152.06.

COMMITTEE. A Historic District Study Committee appointed by the city pursuant to ' ' 152.05 and 14.01.

DEMOLITION. The razing or destruction, whether entirely or in part, of a resource and includes, but is not limited to, demolition by neglect.

DEMOLITION BY NEGLECT. 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.

DENIAL. The written rejection of a permit application for work that is inappropriate and that adversely affects a resource.

HISTORIC DISTRICT. 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.

HISTORIC PRESERVATION. The identification, evaluation, establishment and protection of resources significant in history, architecture, archaeology, engineering or culture.

HISTORIC RESOURCE. 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.

LOCAL UNIT. The City of the Village of Clarkston.

NOTICE TO PROCEED. The written permission to issue a permit for work that is inappropriate and that adversely affects a resource, pursuant to a finding under ' 152.07(E).

OPEN SPACE. Undeveloped land, a naturally landscaped area, or a formal or human-made landscaped area that provides a connective link or a buffer between other resources.

ORDINARY MAINTENANCE. 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 chapter.

PROPOSED HISTORIC DISTRICT. 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.

REPAIR. 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 chapter.

RESOURCE. One or more publicly or privately owned historic or nonhistoric buildings, structures, sites, objects, features or open spaces located within a historic district.

STANDING COMMITTEE. A permanent body established by the city pursuant to ' 14.01 to conduct the activities of a Historic District Study Committee on a continuing basis.

WORK. A construction, addition, alteration, repair, moving, excavation or demolition. (Ord. 118, passed 2-26-1996)

' 152.05 HISTORIC DISTRICTS, ESTABLISHMENT; STUDY COMMITTEE, DUTIES; PRELIMINARY REPORTS, CONTENTS; HEARING, NOTICE; FINAL REPORT, RECOMMENDATIONS; ORDINANCES; AVAILABILITY OF WRITINGS TO PUBLIC.

(A) The city having established a historic district, the historic district shall be administered by a Commission established pursuant to ' 152.06. Before establishing a historic district, the city 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 one or more duly organized local historic preservation organizations.

(B) The Committee shall do all of the following:

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

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

(3) 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 Bureau, if any;

(4) Prepare a preliminary Historic District Study Committee report that addresses at a minimum all of the following:

(a) The charge of the Committee;

(b) The composition of the Committee membership;

(c) The historic district or districts studied;

(d) The boundaries for each proposed historic district in writing and on maps;

(e) The history of each proposed historic district; and

(f) 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.

(5) Transmit copies of the preliminary report for review and recommendations to the local planning body, to the Bureau, to the State Historical Commission and to the State Historic Preservation Review Board; and

(6) Make copies of the preliminary report available to the public pursuant to division (E) below.

(C) Not less than 60 calendar days after the transmittal of the preliminary report, the Committee shall hold a public hearing in compliance with Public Act 267 of 1976, being M.C.L.A. ' ' 15.261 through 15.275, as amended. Public notice of the time, date and place of the hearing shall be given in the manner required by Public Act 267 of 1976, being M.C.L.A. ' ' 15.261 through 15.275, as amended. 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 city.

(D) After the date of the public hearing, the Committee and the city shall have not more than one year, unless otherwise authorized by the city to take

the following actions.

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

(2) After receiving a final report that recommends the establishment of a historic district or districts, the city, at its discretion, may introduce and pass or reject an ordinance or ordinances. If the city passes an ordinance or ordinances establishing one or more historic districts, the city 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. The city 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 city, have approved the establishment of the historic district pursuant to a written petition.

(E) 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 Public Act 442 of 1976, being M.C.L.A. ' ' 15.231 to 15.246, as amended.
(Ord. 118, passed 2-26-1996)

' 152.06 HISTORIC DISTRICT COMMISSIONS; CREATION; MEMBERS, APPOINTMENT, TERMS, VACANCIES; APPLICABILITY OF SECTION.

The city shall establish a commission to be called the Historic District Commission. Each member of the Commission shall reside within the city. The Commission shall consist of five 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 Mayor. Members shall be appointed for three-year terms except the initial appointments of some of the members shall be for less than three 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 Commission shall include as a member, if available, a graduate of an accredited school of architecture who has two years of architectural experience or who is an architect registered in this state.

(Ord. 118, passed 2-26-1996)

' 152.07 WORK AFFECTING EXTERIOR APPEARANCE OF HISTORIC RESOURCES; PERMIT, APPLICATION; CERTIFICATE OF APPROPRIATENESS OR NOTICE; PROCESS FEE; APPEAL OF COMMISSION=S DECISION; STANDARDS AND GUIDELINES; CONSIDERATIONS, HEARING; DELEGATED AUTHORITIES.

(A) 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 division (D) below, 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 chapter. The city may charge a

reasonable fee to process a permit application.

(B) An applicant aggrieved by a decision of a Commission concerning a permit application may file an appeal with the State Historic Preservation Review Board of the State Historical Commission within the Department of State. 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.

(C) (1) 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 Bureau.

(2) 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; and

(d) Other factors, such as aesthetic

value, that the Commission finds relevant.

(D) 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 or unless

(E) If an application is for work that will adversely affect the exterior of a resource the Commission considers valuable to the city, state or 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 preservation of the resource.

(F) 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:

(1) The resource constitutes a hazard to the safety of the public or to the structure=s occupants;

(2) 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;

(3) 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; and

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

(G) When considering signs under this chapter, the Historic District Commission may approve signs which do not comply with the provisions of the city=s

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 division (C) above.

zoning ordinance, as adopted by reference in Chapter 155, if:

(1) The applicant establishes by a preponderance of evidence acceptable to the Commission that the design of the existing sign as replicated, repaired, restored or relocated, preserves a historic facade or premises more effectively than a design complying with the city=s zoning ordinance; and

(2) The Commission requires compliance with the city=s zoning ordinance to the greatest extent consistent with the historical preservation of the facade or premises involved.

(H) 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, Public Act 267 of 1976, being M.C.L.A. ' ' 15.261 to 15.275, as amended. Public notice of the time, date and place of the meeting shall be given in the manner required by Public Act 267 of 1976, being M.C.L.A. ' ' 15.261 to 15.275, as amended. 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.

(I) 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, Public Act 442 of 1976, being M.C.L.A. ' ' 15.231 to 15.245, as amended.

(J) The Commission may adopt its own rules of procedure and shall adopt design review standards and guidelines for resource treatment to carry out its duties under this chapter.

Clarkston - Land Usage

(K) 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 division, 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.

(L) 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:

(1) Require the owner of the resource to repair all conditions contributing to demolition by neglect; or

(2) If the owner does not make repairs within a reasonable time, the Commission or its agents may enter the property and make those 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 city 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.

(M) 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 city 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.

(Ord. 118, passed 2-26-1996)

' 152.08 GRANTS AND GIFTS; BENEFIT PROGRAMS.

The city 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 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. (Ord. 118, passed 2-26-1996)

' 152.09 HISTORIC RESOURCES; ACQUISITION.

If all efforts by the Historic District Commission to preserve a resource fail, or if it is determined by the city that public ownership is most suitable, the city, 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 city. Upon

' 152.10 COUNTY HISTORIC DISTRICT COMMISSION; COUNTY JURISDICTION, COORDINATION; REVIEW OF ACTIVITIES.

The jurisdiction of a county shall be the same as that provided in Public Act 183 of 1943, being M.C.L.A. ' ' 125.201 to 125.232, as amended, or as otherwise provided by contract entered into between the county and the city. 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 the city shall be submitted to the county historic district commission for review.

(Ord. 118, passed 2-26-1996)

' 152.11 FILING OF CERTIFICATES OF APPROPRIATENESS, NOTICES TO PROCEED AND DENIALS OF PERMIT APPLICATIONS; BINDING DECISION APPEALS; RECORDS; UNIFORM ADMINISTRATION OF CHAPTER.

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 chapter. 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

recommendation of the Committee or Standing Committee, the city may sell resources acquired under this section with protective easements included in the property transfer documents, if appropriate.

(Ord. 118, passed 2-26-1996)

Commission, unless an extension is agreed upon in writing by the applicant and the Commission, shall be considered to constitute approval.

(Ord. 118, passed 2-26-1996)

' 152.12 CONSTRUCTION OF CHAPTER.

Nothing in this chapter 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 chapter was enacted.

(Ord. 118, passed 2-26-1996)

' 152.13 HISTORIC DISTRICT COMMISSION; DECISIONS, APPEAL, EXCEPTIONS.

Any citizen or duly organized historic preservation organization in the city, 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 ' 152.07(A) may not appeal to the court without first exhausting the right to appeal to the State Historic Preservation Review Board under ' 152.07(B).

(Ord. 118, passed 2-26-1996)

' 152.14 PROCEDURES FOR ESTABLISHING, MODIFYING OR ELIMINATING HISTORIC DISTRICTS; RESOLUTIONS; EMERGENCY MORATORIUM ON PENDING WORK.

(A) The city 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 shall, except as provided in division (B) below, comply with the procedures set forth in ' 152.05 and shall consider any previously written Committee reports pertinent to the proposed action, to conduct these activities, the city may retain the initial Committee, establish a standing committee or establish a committee to consider only specific proposed districts and then be dissolved.

(B) If considering elimination of a historic district, a committee shall follow the procedures set forth in ' 152.05 for issuing 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 establishment of the district;

(2) The historic district was not significant in the way previously defined; and

(3) The historic district was established pursuant to defective procedures.

(C) Upon receipt of substantial evidence showing the presence of historic, architectural, archaeological, engineering or cultural significance of a proposed historic district, the city 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 ' ' 152.06 and 152.10. 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 one year or until a time as the city approves or rejects the establishment of the historic district by ordinance, whichever occurs first.

(D) If the city determines that pending work will cause irreparable harm to resources located within an established historic district or a proposed historic district, the city may by resolution declare an emergency moratorium of all work for a period not to exceed six months. The city may extend the emergency moratorium for an additional period not to exceed six 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. 118, passed 2-26-1996)

' **152.99 PENALTY.**

(A) A person, individual, partnership, firm, corporation, organization, institution or agency of government that violates this chapter is responsible for a civil violation and may be fined not more than \$5,000.

(B) A person, individual, partnership, firm, corporation, organization, institution or agency of government that violates this chapter 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. 118, passed 2-26-1996)