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# City of Detroit

## CITY COUNCIL

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To: The Honorable City Council

From: David Whitaker, Director  
Janese Chapman, Staff  
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Date: February 1, 2016

Re: **HB 5232 and SB 0270: Legislation to Amend the Michigan Local Historic Districts Act**

House Bill 5232 of 2016, and Senate Bill 0270 of 2016, presently before the Michigan legislature, propose to amend the Michigan Local Historic Districts Act (PA 169 of 1970), the state enabling legislation under which a local unit of government may enact and regulate historic districts. The proposed legislation would significantly restrict the ability of Your Honorable Body to designate new historic districts; it would also affect the manner in which historic districts are regulated, placing an administrative responsibility on the City Council. Finally, the proposed legislation would impose a sunset provision on existing districts, causing them to automatically expire unless "renewed" every ten years.

### BACKGROUND

HB 5232 was introduced by state Rep. Chris Afendoulis (R-Grand Rapids Township) on January 26, 2016, and referred to the House Committee on Local Government that same day. It was deliberated by the committee, with public comment, on January 27, and presently remains in committee.

SB 0270, an identical Senate bill, was introduced by state Sen. Peter MacGregor (R-Rockford), also on January 26, 2016. Referred to the Senate Committee on Local Government, it has not yet been discussed by that committee.

### SUMMARY

Amendments to the Michigan Local Historic Districts Act, as proposed by the aforementioned House and Senate bills, would effect a number of changes upon the procedures by which the City of Detroit designates and regulates historic districts.

Should HB 5232 and SB 0270 become law, the new legislation would:

- Require, in the form of a written petition, approval of two-thirds of property owners within a proposed historic district before the City Council can direct a study committee (i.e., the Historic Designation Advisory Board) to study the proposed district.
- Require that boundaries of a proposed historic district be delineated by the aforementioned petition; they would not be subject to modification during the study process or by the City Council.
- Require that the the study committee (i.e., the Historic Designation Advisory Board) contain at least one “elected member of the legislative body” (i.e. a City Council member) and at least one person “engaged in the business of residential or commercial construction.” The size of the Historic Designation Advisory Board would be set at 4–7 members.
- Stipulate that the designation of a historic district is conditional, subject to approval by voters in a citywide election.
- Grant the City Council appellate authority over Historic District Commission decisions, and mandate that the City Council hear each appeal at “its first regularly scheduled meeting after receiving the appeal.”
- Eliminate the role of the State Historic Preservation Review Board in the appeal process.
- Allow the Historic District Commission to deviate from the Secretary of the Interior’s Standards reviewing proposed work in historic districts.
- Prohibit the City Council from regulating building interiors.
- Require City Council approval before the Historic District Commission may take action in a case of demolition by neglect.
- Allow the City Council to eliminate an existing historic district without undergoing the study and evaluation procedures formerly required by the Act.
- Cause historic districts to dissolve after ten years unless “renewed” by voters in a citywide election.

The bills also propose several non-substantive changes updating or clarifying language in the Act.

## **ANALYSIS**

### **Preliminary Approval Requirement**

The requirement to obtain approval from two-thirds of property owners establishes a significant obstacle to initiating the historic designation process. Approximately 20% of structures in Detroit are unoccupied, and only about 60% are owner occupied; furthermore, over 100,000 vacant

parcels exist throughout the city.<sup>1</sup> Properties that are not owner-occupied may be in foreclosure or owned by banks, or owned by absentee landlords, speculators, or corporate or institutional owners. In prior experience, staff of the Historic Designation Advisory Board and City Planning Commission have found these classes of property owners to be very difficult to contact, and we feel that they would be unlikely to respond to a petition regarding historic designation. This would render the preliminary approval requirement virtually impossible to meet in many instances, preventing the City Council from designating a historic district even in cases of widespread or unanimous community support.

Furthermore, the requirement gives the interests of property owners, who may or may not be Detroit residents, primacy over the interests of residents of proposed historic districts.

By requiring that boundaries be established by petition at the outset of a study, the City Council would lack the ability to modify boundaries in response to public input or other findings made during the study process.

### **Popular Vote Requirement**

The requirement that proposed historic districts be confirmed by a citywide popular vote would introduce a delay of as long as two years into the historic designation process. Furthermore, this would shift responsibility for historic designation from the City Council to the citywide electorate, potentially overshadowing the role of local stakeholders in the process.

### **Composition of the Historic Designation Advisory Board**

Presently, the Historic Designation Advisory Board consists of nine permanent members, plus two community members appointed on an *ad-hoc* basis for each study, for a total of eleven voting members. Under the proposed legislation, the size of the board would be capped at seven members.

The requirement to include a representative of the construction industry, though new, would be largely consistent with the existing practice of Your Honorable Body to appoint members familiar with historic preservation concerns.

The requirement to include a City Council member as a member of the Historic Designation Advisory Board would seem to be “incompatible” according to the Incompatible Public Offices Act (PA 566 of 1978) as it relates to the member serving on both boards.<sup>2</sup> It is unclear how this conflict would be resolved.

### **Appellate Authority**

Under the present legislation, appeals of Historic District Commission decisions are heard by the Michigan State Historic Preservation Review Board prior to appeal to circuit court. The proposed legislation would replace state appeal with City Council appeal. Due to the large number of cases heard by the Historic District Commission and its staff each month, as well as the technical nature of Historic District Commission decisions, this would impose a significant administrative

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1 According to estimates at <http://motorcitymapping.org>.

2 State of Michigan Attorney General Opinion #7105, April 17, 2002.

burden upon Your Honorable Body, likely necessitating the devotion of additional staff resources or additional staff.

The change in the appeal process would effectively place the Historic District Commission in a subservient position to the City Council. Historic review would be shifted from a fundamentally administrative process, to a political one.

### **Dissolution and “Renewal” of Historic Districts.**

The existence of over 130 historic districts in the City of Detroit—designated in virtually all cases with strong community support and after a process soliciting substantial public input—stands as evidence of the broad appeal of historic designation in our communities. The benefits of historic districts as an economic development tool are well established.<sup>3</sup> We feel that the attraction of historic district designation results, in large part, from the degree of stability it affords. Amending existing legislation to include a “sunset” clause would add an element of uncertainty to the process that would negate many of its benefits.

In the creation of historic districts, due process is already ensured by existing procedures that require a study period, two public hearings, and a vote from Your Honorable Body prior to the establishment of a historic district. A provision to eliminate a historic district, after a study period, already exists, and present legislation already allows the Historic District Commission to approve alterations or demolitions of historic buildings when warranted due to safety concerns, financial hardship, a major public improvement program, or when retaining a historic structure “is not in the interest of a majority of the community.

### **Fiscal Impact**

According to a report by the House Fiscal Agency, the bills would “increase the costs of local units of governments attempting to set up new or modify existing historic districts”<sup>4</sup> due to the aforementioned mandate for City Council appeal as well as the requirement for elections to establish historic districts and “renew” them every ten years.

### **Certified Local Government Status**

As a Certified Local Government (CLG), the City of Detroit is eligible to apply annually for federal Historic Preservation Fund grant funding. 36 CFR 61.6 requires CLGs to maintain “appropriate State or local legislation for the designation and protection of historic properties,” and there is some concern that the proposed legislation may not meet the federal appropriateness standard identified above. We await guidance on this matter from the State Historic Preservation Office of the Michigan State Housing Development Authority.

## **STATEWIDE RESPONSE**

The Michigan Municipal League, on January 27, 2016, testified before the House Committee on Local Government in opposition to HB 5232. The Michigan Association of Planning and the

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<sup>3</sup> “Economics and Historic Preservation: A Guide and Review of the Literature,” The Brookings Institution Metropolitan Policy Program, 2005.

<sup>4</sup> House Fiscal Agency, “Historic District Designation,” January 27, 2016.

<http://www.legislature.mi.gov/documents/2015-2016/billanalysis/House/htm/2015-HLA-5232-FF799FFD.htm>

Michigan Historic Preservation Network have issued statements in opposition to both bills.

## **CONCLUSION**

HB 5232 and SB 0272 would greatly restrict the ability of the City of Detroit to create new historic districts, and increase the resources needed to regulate historic districts. It would only grant two new powers—the authority to review Historic District Commission decisions, and the ability to eliminate historic districts without the present study requirement.

Due the widespread anticipated impact of the proposed legislation on historic preservation policy in the City of Detroit, we recommend that Your Honorable Body adopt a resolution opposing SB 5232 and SB 0272 as written. We have attached a resolution for your consideration.

Attachment:

Resolution

HB 5232 of 2016

**RESOLUTION IN OPPOSITION TO HOUSE BILL 5232 AND SENATE BILL 0720,  
LEGISLATION TO AMEND THE MICHIGAN LOCAL HISTORIC DISTRICTS ACT**

**By Council Member \_\_\_\_\_ :**

**WHEREAS** historic preservation is declared to be a “public purpose” under Chapter 25, Section 25-2-1 of the Detroit City Code, which further seeks to “safeguard the heritage of the city by preserving areas in the city which reflect elements of its cultural, social, spiritual, economic, political, engineering, or architectural history or its archeology”;

**WHEREAS** Public Act 179 of 1970, the Michigan Local Historic Districts Act (hereinafter, “the Act”), enables local units of government to establish historic districts; and

**WHEREAS** the positive benefits of historic districts on the economic development, quality of life, and general welfare of the people of the City of Detroit are well established; and

**WHEREAS** the City of Detroit contains over 130 historic districts established under a democratic process which is initiated by citizen petition, and includes, in accordance with Chapter 25 of the City Code, substantial outreach to members of the affected communities, statutory public hearings, and final consideration and enactment by the City Council; and

**WHEREAS** the City of Detroit has been designating and administering historic districts for several decades, beginning in 1970, and historic districts previously established retain equal, or have attained greater, significance over the intervening years, and

**WHEREAS** House Bill 5232 of 2016, and the identical legislation Senate Bill 0270 of 2016, introduced to the legislature of the State of Michigan on January 26, 2016, propose to amend the Act to place additional and significant restrictions on the ability of a local unit of government to designate and regulate historic districts; and

**WHEREAS** House Bill 5232 of 2016, and the identical legislation Senate Bill 0270 of 2016, would additionally amend the Act such that existing historic districts will expire unless “renewed” every ten years;

**WHEREAS** a report from the House Fiscal Agency suggests that the legislation as written would “increase the costs of local units of government attempting to set up new or modify existing historic districts”; **NOW, THEREFORE BE IT**

**RESOLVED** that the Detroit City Council hereby urges the House Committee on Local Government, the Senate Committee on Local Government, and the entire state legislature to reject House Bill 5232 of 2016, and Senate Bill 0270 of 2016, as written, **AND BE IT FINALLY**

**RESOLVED** that a copy of this resolution shall be transmitted to the House Committee on Local Government, the Senate Committee on Local Government, the Detroit delegation of the Michigan legislature, and the Governor of the State of Michigan.

# HOUSE BILL No. 5232

January 26, 2016, Introduced by Reps. Afendoulis, Chatfield, Theis, Lucido, Poleski, Lyons, Cox, Sheppard, Hughes, Hooker, Smiley, Price, LaFontaine, Callton, Yonker, Garcia, Victory, Cole, Johnson, Kivela, Jenkins, Bumstead, Kelly and Glenn and referred to the Committee on Local Government.

A bill to amend 1970 PA 169, entitled "Local historic districts act," by amending sections 1a, 3, 5, 9, and 14 (MCL 399.201a, 399.203, 399.205, 399.209, and 399.214), sections 1a and 5 as amended by 2004 PA 67, sections 3 and 9 as amended by 2001 PA 67, and section 14 as added by 1992 PA 96.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 1a. As used in this act:

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

4       (b) "AUTHORITY" MEANS THE MICHIGAN STATE HOUSING DEVELOPMENT  
5 AUTHORITY CREATED BY SECTION 21 OF THE STATE HOUSING DEVELOPMENT  
6 AUTHORITY ACT OF 1966, 1966 PA 346, MCL 125.1421.

7       (c) ~~(b)~~—"Certificate of appropriateness" means the written



1 approval of a permit application for work that is appropriate and  
2 that does not adversely affect a resource.

3 (D) ~~(e)~~—"Commission" means a historic district commission  
4 created by the legislative body of a local unit under section 4.

5 (E) ~~(d)~~—"Committee" means a historic district study committee  
6 appointed by the legislative body of a local unit under section 3  
7 or 14.

8 (F) ~~(e)~~—"Demolition" means the razing or destruction, whether  
9 entirely or in part, of a resource and includes, but is not limited  
10 to, demolition by neglect.

11 (G) ~~(f)~~—"Demolition by neglect" means neglect in maintaining,  
12 repairing, or securing a resource that results in deterioration of  
13 an exterior feature of the resource or the loss of structural  
14 integrity of the resource.

15 (H) ~~(g)~~—"Denial" means the written rejection of a permit  
16 application for work that is inappropriate and that adversely  
17 affects a resource.

18 ~~—(h) "Department" means the department of history, arts, and~~  
19 ~~libraries.~~

20 (i) "Fire alarm system" means a system designed to detect and  
21 announce the presence of fire or by-products of fire. Fire alarm  
22 system includes smoke alarms.

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

27 (k) "Historic preservation" means the identification,

1 evaluation, establishment, and protection of resources significant  
2 in history, architecture, archaeology, engineering, or culture.

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

8 (m) "Local unit" means a county, city, village, or township.

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

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

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

22 (q) "Proposed historic district" means an area, or group of  
23 areas not necessarily having contiguous boundaries, that has  
24 delineated boundaries and that is ~~under review by a committee or a~~  
25 ~~standing committee~~-SUBJECT TO THE REVIEW PROCESS SET FORTH IN  
26 SECTION 3(1)(A) TO (D)(iii) OR 14(1) for the purpose of making a  
27 ~~recommendation as to~~DECIDING whether it should be established as a

1 historic district or added to an established historic district.

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

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

9 (t) "Smoke alarm" means a single-station or multiple-station  
10 alarm responsive to smoke and not connected to a system. As used in  
11 this subdivision, "single-station alarm" means an assembly  
12 incorporating a detector, the control equipment, and the alarm  
13 sounding device into a single unit, operated from a power supply  
14 either in the unit or obtained at the point of installation.

15 "Multiple-station alarm" means 2 or more single-station alarms that  
16 are capable of interconnection such that actuation of 1 alarm  
17 causes all integrated separate audible alarms to operate.

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

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

24 Sec. 3. (1) A local unit may, by ordinance, establish 1 or  
25 more ~~historic districts. The historic districts, WHICH~~ shall be  
26 administered by a commission established ~~pursuant to~~ UNDER section  
27 4, ~~Before establishing a historic district,~~ SUBJECT TO ALL OF THE

1 FOLLOWING:

2 (A) THE LOCAL UNIT SHALL OBTAIN PRELIMINARY APPROVAL OF A  
3 PROPOSED HISTORIC DISTRICT FROM AT LEAST 2/3 OF THE PROPERTY OWNERS  
4 WITHIN THE PROPOSED HISTORIC DISTRICT, AS LISTED ON THE TAX ROLLS  
5 OF THE LOCAL UNIT, PURSUANT TO A WRITTEN PETITION THAT INCLUDES A  
6 PRECISE DESCRIPTION OF THE BOUNDARIES OF THE PROPOSED HISTORIC  
7 DISTRICT.

8 (B) FOR PURPOSES OF FURTHER CONSIDERING 1 OR MORE PROPOSED  
9 HISTORIC DISTRICTS APPROVED UNDER SUBDIVISION (A), the legislative  
10 body of the local unit shall appoint a historic district study  
11 committee. The committee shall ~~contain a majority of persons who~~  
12 ~~have a clearly demonstrated interest in or knowledge of historic~~  
13 ~~preservation, and shall contain representation from 1 or more~~  
14 CONSIST OF 4 TO 7 INDIVIDUALS, 1 OF WHOM IS AN ELECTED MEMBER OF  
15 THE LEGISLATIVE BODY OF THE LOCAL UNIT, 1 OF WHOM IS A  
16 REPRESENTATIVE OF A duly organized local historic preservation  
17 ~~organizations.~~ ORGANIZATION, AND AT LEAST 1 OF WHOM IS ENGAGED IN  
18 THE BUSINESS OF RESIDENTIAL OR COMMERCIAL CONSTRUCTION. The  
19 committee shall do all of the following:

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

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

25 (iii) ~~(c)~~ Determine the total number of historic and  
26 nonhistoric resources within a proposed historic district and the  
27 percentage of historic resources of that total. In evaluating the

1 significance of historic resources, the committee shall be guided  
 2 by the selection criteria for evaluation issued by the United  
 3 States ~~secretary of the interior~~ **SECRETARY OF THE INTERIOR** for  
 4 inclusion of resources in the national register of historic places,  
 5 as set forth in 36 ~~C.F.R.~~ **CFR** part 60. ~~and criteria established~~  
 6 ~~or approved by the department, if any.~~

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

9 (A) ~~(i)~~ The charge of the committee.

10 (B) ~~(ii)~~ The composition of the committee membership.

11 (C) ~~(iii)~~ The historic district or districts studied.

12 (D) ~~(iv)~~ The boundaries for each proposed historic district in  
 13 writing and on maps.

14 (E) ~~(v)~~ The history of each proposed historic district.

15 (F) ~~(vi)~~ The significance of each district as a whole, as well  
 16 as a sufficient number of its individual resources to fully  
 17 represent the variety of resources found within the district,  
 18 relative to the evaluation criteria.

19 (v) ~~(e)~~ Transmit copies of the preliminary report for review  
 20 and recommendations to the local planning body, to the ~~department,~~  
 21 **AUTHORITY, AND** to the Michigan historical commission. ~~and to the~~  
 22 ~~state historic preservation review board.~~

23 (vi) ~~(f)~~ Make copies of the preliminary report available to  
 24 the public pursuant to subsection ~~(4)~~ (2).

25 (C) ~~(2)~~ Not less than 60 calendar days after the transmittal  
 26 of the preliminary report, the committee shall hold a public  
 27 hearing in compliance with the open meetings act, 1976 PA 267, MCL

1 15.261 to 15.275. Public notice of the time, date, and place of the  
 2 hearing shall be given in the manner required by the open meetings  
 3 act, 1976 PA 267, MCL 15.261 to 15.275. Written notice shall be  
 4 mailed by first-class mail ~~not less than~~ **AT LEAST** 14 calendar days  
 5 before the hearing to the owners of properties within the proposed  
 6 historic district, as listed on the tax rolls of the local unit.

7 (D) ~~(3) After~~ **ALL OF THE FOLLOWING MUST OCCUR WITHIN 1 YEAR**  
 8 **AFTER** the date of the public hearing, ~~the committee and the~~  
 9 ~~legislative body of the local unit shall have not more than 1 year,~~  
 10 unless ~~otherwise~~ **SOME OTHER TIME FRAME IS** authorized by the  
 11 legislative body of the local unit: ~~to take the following~~  
 12 ~~actions.~~

13 (i) ~~(a)~~ The committee shall prepare and submit a final report  
 14 with its recommendations and the recommendations, if any, of the  
 15 local planning body to the legislative body of the local unit. If  
 16 the recommendation is to establish a historic district or  
 17 districts, the final report ~~shall~~ **MAY** include a draft of a proposed  
 18 ordinance or ordinances.

19 (ii) ~~(b)~~ After receiving a final report that recommends the  
 20 establishment of a historic district or districts, the legislative  
 21 body of the local unit, at its discretion, may introduce and pass  
 22 or reject ~~an~~ **A CONDITIONALLY EFFECTIVE** ordinance or ordinances **THAT**  
 23 **WILL ESTABLISH A HISTORIC DISTRICT OR DISTRICTS ONLY IF APPROVED**  
 24 **UNDER SUBPARAGRAPH (iii) .**

25 (iii) **A CONDITIONALLY EFFECTIVE ORDINANCE OR ORDINANCES PASSED**  
 26 **UNDER SUBPARAGRAPH (ii) ESTABLISHES A HISTORIC DISTRICT OR**  
 27 **DISTRICTS ONLY IF A MAJORITY OF THE ELECTORS IN THE LOCAL UNIT**

1 VOTING AT AN ELECTION APPROVE THAT ESTABLISHMENT OF THE HISTORIC  
2 DISTRICT OR DISTRICTS. THIS VOTE SHALL BE TAKEN AT THE NEXT REGULAR  
3 ELECTION HELD IN THE LOCAL UNIT THAT OCCURS AT LEAST 70 DAYS AFTER  
4 THE PASSAGE OF THE CONDITIONALLY EFFECTIVE ORDINANCE OR ORDINANCES  
5 DESCRIBED IN SUBPARAGRAPH (ii).

6 (iv) If ~~the local unit passes~~ ACTIONS TAKEN UNDER  
7 SUBPARAGRAPHS (ii) AND (iii) RESULT IN THE PASSAGE OF an ordinance  
8 or ordinances establishing 1 or more historic districts, the local  
9 unit shall file a copy of that ordinance or those ordinances,  
10 including a legal description of the property or properties located  
11 within the historic district or districts, with the register of  
12 deeds. ~~A local unit shall not pass an ordinance establishing a~~  
13 ~~contiguous historic district less than 60 days after a majority of~~  
14 ~~the property owners within the proposed historic district, as~~  
15 ~~listed on the tax rolls of the local unit, have approved the~~  
16 ~~establishment of the historic district pursuant to a written~~  
17 ~~petition.~~

18 (2) ~~(4)~~ A writing prepared, owned, used, in the possession of,  
19 or retained by a committee in the performance of an official  
20 function shall be made available to the public in compliance with  
21 the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

22 Sec. 5. (1) A permit shall be obtained before any work  
23 affecting the exterior appearance of a resource is performed within  
24 a historic district or, if required under subsection (4), work  
25 affecting the interior arrangements of a resource is performed  
26 within a historic district. The person, individual, partnership,  
27 firm, corporation, organization, institution, or agency of

1 government proposing to do that work shall file an application for  
2 a permit with the inspector of buildings, the commission, or other  
3 duly delegated authority. If the inspector of buildings or other  
4 authority receives the application, the application shall be  
5 immediately referred together with all required supporting  
6 materials that make the application complete to the commission. A  
7 permit shall not be issued and proposed work shall not proceed  
8 until the commission has acted on the application by issuing a  
9 certificate of appropriateness or a notice to proceed as prescribed  
10 in this act. A commission shall not issue a certificate of  
11 appropriateness unless the applicant certifies in the application  
12 that the property where work will be undertaken has, or will have  
13 before the proposed project completion date, a fire alarm system or  
14 a smoke alarm complying with the requirements of the Stille-  
15 DeRossett-Hale single state construction code act, 1972 PA 230, MCL  
16 125.1501 to 125.1531. A local unit may charge a reasonable fee to  
17 process a permit application.

18 (2) An applicant aggrieved by a decision of a commission  
19 concerning a permit application may file an appeal with the ~~state~~  
20 ~~historic preservation review board within the department.~~  
21 **LEGISLATIVE BODY OF THE LOCAL UNIT.** The appeal shall be filed  
22 within 60 days after the decision is furnished to the applicant.  
23 The appellant may submit all or part of the appellant's evidence  
24 and arguments in written form. The ~~review board~~-**LEGISLATIVE BODY OF**  
25 **THE LOCAL UNIT** shall consider an appeal at its first regularly  
26 scheduled meeting after receiving the appeal, but may not charge a  
27 fee for considering an appeal. The ~~review board~~-**LEGISLATIVE BODY OF**



1 THE LOCAL UNIT may affirm, modify, or set aside a commission's  
 2 decision and may order a commission to issue a certificate of  
 3 appropriateness or a notice to proceed. A permit applicant  
 4 aggrieved by the decision of the ~~state-historic-preservation-review~~  
 5 ~~board~~-LEGISLATIVE BODY OF THE LOCAL UNIT may appeal the decision to  
 6 the circuit court having jurisdiction over the historic district  
 7 commission whose decision was appealed to the ~~state-historic~~  
 8 ~~preservation-review board~~-LEGISLATIVE BODY OF THE LOCAL UNIT.

9 (3) In reviewing plans, the commission shall ~~follow~~-CONSULT  
 10 the United States ~~secretary~~-SECRETARY of the ~~interior's~~-INTERIOR'S  
 11 standards for rehabilitation and guidelines for rehabilitating  
 12 historic buildings, as set forth in 36 ~~C.F.R.~~-CFR part 67, UNLESS  
 13 THE COMMISSION FINDS THAT A DIFFERENT STANDARD IS IN THE BEST  
 14 INTEREST OF THE COMMUNITY. Design review standards and guidelines  
 15 that address special design characteristics of historic districts  
 16 administered by the commission may be followed if ~~they are~~  
 17 ~~equivalent in guidance to the secretary of interior's standards and~~  
 18 ~~guidelines and are established or approved by the department.~~-THE  
 19 COMMISSION FINDS THAT THEY ARE IN THE BEST INTEREST OF THE  
 20 COMMUNITY. The commission shall also consider all of the following:

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

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

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

1 (d) Other factors THAT THE COMMISSION FINDS RELEVANT, such as  
2 aesthetic value ~~, that the commission finds relevant.~~ AND THE  
3 REASONABLENESS OF THE ADDITIONAL COSTS REQUIRED TO COMPLETE A  
4 HISTORICALLY ACCURATE REHABILITATION.

5 (e) Whether the applicant has certified in the application  
6 that the property where work will be undertaken has, or will have  
7 before the proposed project completion date, a fire alarm system or  
8 a smoke alarm complying with the requirements of the Stille-  
9 DeRossett-Hale single state construction code act, 1972 PA 230, MCL  
10 125.1501 to 125.1531.

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

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

26 (6) Work within a historic district shall be permitted through  
27 the issuance of a notice to proceed by the commission if any of the

1 following conditions prevail and if the proposed work can be  
2 demonstrated by a finding of the commission to be necessary to  
3 substantially improve or correct any of the following conditions:

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

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

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

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

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

27 (8) The commission shall keep a record of its resolutions,

1 proceedings, and actions. A writing prepared, owned, used, in the  
2 possession of, or retained by the commission in the performance of  
3 an official function shall be made available to the public in  
4 compliance with the freedom of information act, 1976 PA 442, MCL  
5 15.231 to 15.246.

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

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

19 (11) Upon a finding by a commission that a historic resource  
20 within a historic district or a proposed historic district subject  
21 to its review and approval is threatened with demolition by  
22 neglect, the commission may do either of the following **WITH THE**  
23 **APPROVAL OF THE LEGISLATIVE BODY OF THE LOCAL UNIT:**

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

26 (b) If the owner does not make repairs within a reasonable  
27 time, the commission or its agents may enter the property and make

1 such repairs as are necessary to prevent demolition by neglect. The  
2 costs of the work shall be charged to the owner, and may be levied  
3 by the local unit as a special assessment against the property. The  
4 commission or its agents may enter the property for purposes of  
5 this section upon obtaining an order from the circuit court.

6 (12) When work has been done upon a resource without a permit,  
7 and the commission finds that the work does not qualify for a  
8 certificate of appropriateness, the commission may require an owner  
9 to restore the resource to the condition the resource was in before  
10 the inappropriate work or to modify the work so that it qualifies  
11 for a certificate of appropriateness. If the owner does not comply  
12 with the restoration or modification requirement within a  
13 reasonable time, the commission may seek an order from the circuit  
14 court to require the owner to restore the resource to its former  
15 condition or to modify the work so that it qualifies for a  
16 certificate of appropriateness. If the owner does not comply or  
17 cannot comply with the order of the court, the commission or its  
18 agents may enter the property and conduct work necessary to restore  
19 the resource to its former condition or modify the work so that it  
20 qualifies for a certificate of appropriateness in accordance with  
21 the court's order. The costs of the work shall be charged to the  
22 owner, and may be levied by the local unit as a special assessment  
23 against the property. When acting pursuant to an order of the  
24 circuit court, a commission or its agents may enter a property for  
25 purposes of this section.

26 Sec. 9. (1) The commission shall file certificates of  
27 appropriateness, notices to proceed, and denials of applications

1 for permits with the inspector of buildings or other delegated  
2 authority. A permit shall not be issued until the commission has  
3 acted as prescribed by this act. If a permit application is denied,  
4 the decision shall be binding on the inspector or other authority.  
5 A denial shall be accompanied with a written explanation by the  
6 commission of the reasons for denial and, if appropriate, a notice  
7 that an application may be resubmitted for commission review when  
8 suggested changes have been made. The denial shall also include  
9 notification of the applicant's rights of appeal to the ~~state~~  
10 ~~historic preservation review board~~ **LEGISLATIVE BODY OF THE LOCAL**  
11 **UNIT** and to the circuit court. The failure of the commission to act  
12 within 60 calendar days after the date a complete application is  
13 filed with the commission, unless an extension is agreed upon in  
14 writing by the applicant and the commission, shall be considered to  
15 constitute approval.

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

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

26 Sec. 14. (1) ~~A~~ **EXCEPT AS OTHERWISE PROVIDED IN THIS**  
27 **SUBSECTION, A** local unit may at any time establish by ordinance

1 additional historic districts, including proposed districts  
2 previously considered and rejected, may modify boundaries of an  
3 existing historic district, or may eliminate an existing historic  
4 district. ~~Before establishing, modifying, or eliminating a historic~~  
5 ~~district, a historic district study committee appointed by the~~  
6 ~~legislative body of the local unit~~ WHEN CONSIDERING THE  
7 ESTABLISHMENT OF AN ADDITIONAL HISTORIC DISTRICT OR THE  
8 MODIFICATION OF THE BOUNDARIES OF AN EXISTING ONE, THE LOCAL UNIT  
9 SHALL FIRST OBTAIN THE PETITION DESCRIBED IN SECTION 3(1)(A) BEFORE  
10 THE LEGISLATIVE BODY OF THE LOCAL UNIT MAY APPOINT A HISTORIC  
11 DISTRICT STUDY COMMITTEE OR AUTHORIZE THE SERVICES OF A RETAINED  
12 INITIAL COMMITTEE, A STANDING COMMITTEE, OR A COMMITTEE ESTABLISHED  
13 TO CONSIDER ONLY SPECIFIC PROPOSED DISTRICTS AND THEN BE DISSOLVED.  
14 IF A COMMITTEE IS APPOINTED OR ITS SERVICES ARE AUTHORIZED BY THE  
15 LEGISLATIVE BODY OF THE LOCAL UNIT, FURTHER CONSIDERATION OF THE  
16 ESTABLISHMENT OF AN ADDITIONAL HISTORIC DISTRICT OR MODIFICATION OF  
17 THE BOUNDARIES OF AN EXISTING ONE SHALL FOLLOW THE PROCEDURES SET  
18 FORTH IN SECTION 3(1)(B) TO (D) AND THE COMMITTEE SHALL ALSO  
19 CONSIDER ANY PREVIOUSLY WRITTEN COMMITTEE REPORTS PERTINENT TO THE  
20 PROPOSED ACTION. WHEN CONSIDERING THE ELIMINATION OF A HISTORIC  
21 DISTRICT, THE LEGISLATIVE BODY OF THE LOCAL UNIT MAY APPOINT A  
22 HISTORIC DISTRICT STUDY COMMITTEE AND MAY DO SO WITHOUT THE  
23 PETITION DESCRIBED IN SECTION 3(1)(A) FIRST BEING OBTAINED; THAT  
24 COMMITTEE shall ~~, except as provided in subsection (2),~~ comply with  
25 the procedures set forth in section ~~3-3~~(1)(B) TO (D) and shall  
26 consider any previously written committee reports pertinent to the  
27 proposed action; AND ANY ORDINANCE THAT THE LEGISLATIVE BODY OF THE

1 LOCAL UNIT PASSES FOR PURPOSES OF ELIMINATING THE HISTORIC DISTRICT  
2 IS EFFECTIVE WITHOUT THE ELECTORS' APPROVAL DESCRIBED IN SECTION  
3 3(1)(D)(ii) TO (iii) SUBSEQUENTLY BEING OBTAINED. To conduct these  
4 THE activities DESCRIBED IN THIS SUBSECTION, local units may,  
5 SUBJECT TO THE PETITION PROCEDURE REFERENCED IN THIS SUBSECTION,  
6 retain the initial committee, establish a standing committee, or  
7 establish a committee to consider only specific proposed districts  
8 and then be dissolved.

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

14 ~~—— (i) The historic district has lost those physical~~  
15 ~~characteristics that enabled establishment of the district.~~

16 ~~—— (ii) The historic district was not significant in the way~~  
17 ~~previously defined.~~

18 ~~—— (iii) The historic district was established pursuant to~~  
19 ~~defective procedures.~~

20 (2) ~~(3)~~ Upon receipt of substantial evidence showing the  
21 presence of historic, architectural, archaeological, engineering,  
22 or cultural significance of a proposed historic district, the  
23 legislative body of a local unit may, at its discretion, adopt a  
24 resolution requiring that all applications for permits within the  
25 proposed historic district be referred to the commission as  
26 prescribed in sections 5 and 9. The commission shall review permit  
27 applications with the same powers that would apply if the proposed



1 historic district was an established historic district. The review  
2 may continue in the proposed historic district for not more than 1  
3 year, or until such time as the ~~local unit approves or rejects the~~  
4 establishment of the historic district ~~by ordinance,~~ IS APPROVED OR  
5 REJECTED PURSUANT TO THE PROCEDURES SET FORTH IN SECTION 3 OR 14,  
6 whichever occurs first.

7 (3) ~~(4)~~—If the legislative body of a local unit determines  
8 that pending work will cause irreparable harm to resources located  
9 within an established historic district or a proposed historic  
10 district, the legislative body may by resolution declare an  
11 emergency moratorium of all such work for a period not to exceed 6  
12 months. The legislative body may extend the emergency moratorium  
13 for an additional period not to exceed 6 months upon finding that  
14 the threat of irreparable harm to resources is still present. Any  
15 pending permit application concerning a resource subject to an  
16 emergency moratorium may be summarily denied.

17 (4) A HISTORIC DISTRICT IN EXISTENCE ON THE EFFECTIVE DATE OF  
18 THE AMENDATORY ACT THAT ADDED THIS SUBSECTION SHALL DISSOLVE 10  
19 YEARS AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED  
20 THIS SUBSECTION UNLESS THE QUESTION OF ITS RENEWAL IS SUBMITTED TO  
21 THE ELECTORS IN THE LOCAL UNIT AT THE REGULAR ELECTION IMMEDIATELY  
22 PRECEDING THE DATE THAT THE HISTORIC DISTRICT WOULD OTHERWISE  
23 DISSOLVE AND A MAJORITY OF THOSE ELECTORS VOTING AT THE ELECTION  
24 APPROVE THE RENEWAL OF THE HISTORIC DISTRICT. A HISTORIC DISTRICT  
25 ESTABLISHED UNDER THIS ACT OR RENEWED UNDER THIS SUBSECTION AFTER  
26 THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION  
27 SHALL DISSOLVE 10 YEARS AFTER THE DATE OF THAT ESTABLISHMENT OR

1 RENEWAL UNLESS THE QUESTION OF ITS RENEWAL IS SUBMITTED TO THE  
2 ELECTORS IN THE LOCAL UNIT AT THE REGULAR ELECTION IMMEDIATELY  
3 PRECEDING THE DATE THAT THE HISTORIC DISTRICT WOULD OTHERWISE  
4 DISSOLVE AND A MAJORITY OF THOSE ELECTORS VOTING AT THE ELECTION  
5 APPROVE THE RENEWAL OF THE HISTORIC DISTRICT. A RENEWAL APPROVED  
6 UNDER THIS SUBSECTION IS EFFECTIVE ON THE DATE THAT THE HISTORIC  
7 DISTRICT WOULD HAVE OTHERWISE DISSOLVED.