

## PRESERVATION ORDINANCE TEXT AMENDMENT SUMMARY

<i>Initiator:</i>	Council Member Warsame
<i>Introduction Date:</i>	November 20, 2015
<i>Prepared By:</i>	<u>Lisa Steiner</u> , Senior City Planner, (612) 673-3950
<i>Specific Site:</i>	N/A
<i>Ward:</i>	All
<i>Neighborhood:</i>	All
<i>Intent:</i>	To simplify the requirements for Certificate of Appropriateness applications.

## APPLICABLE SECTION OF TITLE 23: HERITAGE PRESERVATION

- Chapter 599, Heritage Preservation Regulations

## BACKGROUND

On November 20, 2015, Council Member Warsame introduced the subject matter of an ordinance amending the preservation ordinance to simplify the requirements for Certificate of Appropriateness applications. This was spurred by a 2015 *Business Made Simple Report* initiated by Mayor Hodges which recommended that the City simplify the list of requirements for issuing a Certificate of Appropriateness under the preservation ordinance.

The current Certificate of Appropriateness findings were adopted as part of a significant overhaul of the preservation ordinance in 2009. Prior to that, between 2001 and 2009, the required findings for a Certificate of Appropriateness were limited to the following paragraph in the preservation ordinance:

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

When the existing Certificate of Appropriateness findings were adopted in 2009, the lengthier and significantly more detailed findings were intended to bolster the content to allow for a more thorough analysis of projects by both applicants and staff and to allow for better communication between all parties involved.

While the current findings helpfully reference several materials utilized by staff in preservation reviews, these referenced materials are scattered throughout the various required findings. Many of the findings are repetitive or are only slightly different from one another. In administering the ordinance, staff has found that the wording of the findings at times can appear overly complex for applicants new to the process. Staff believes simple opportunities exist to consolidate the existing findings and simplify the language while still thoughtfully and efficiently analyzing projects.

In reviewing the ordinance for this amendment, staff has also identified some other necessary amendments in order to retain consistency in code language, as well as a few redundancies and typos that are recommended to be amended at this time.

## PURPOSE

### **What is the reason for the amendment?**

The amendment was primarily initiated in response to a recommendation of the *Business Made Simple Report* completed in 2015 by the City Attorney's office and Mayor Hodges. That report identified key goals for improvements for small businesses. Regarding heritage preservation, this document stated:

*City ordinances (Section 599.350) govern the factors for issuing a Certificate of Appropriateness to allow alteration of a property in a historic district, a nominated property or a designated landmark. This section contains at least 13 different factors, some of which are overlapping and/or could be made more clear. This section could be simplified, making it easier to understand and administer without compromising historic protections and review authority.*

Staff has identified these same issues in administering the ordinance since the current findings were adopted in 2009.

Additionally, the Demolition of Historic Resource findings and Certificate of No Change findings are recommended to be amended for organizational and language consistency with the recommendations for Certificate of Appropriateness findings. Staff is also recommending a minor amendment of the Demolition of Historic Resource language to clarify that the burden of proof is on the applicant to present the items necessary for the Commission to approve the application if the property is found to be a historic resource.

The other accompanying housekeeping revisions are intended to clarify the ordinance and eliminate redundancies and inconsistencies. Currently, properties that have less than 5,000 square feet of lot area have a \$250 Certificate of Appropriateness application fee for alteration but a \$450 fee for new construction. Considering that the definition of "alteration" in the preservation ordinance includes new construction, staff finds that it would simplify the ordinance to eliminate the separate fee structures for alterations versus new construction. For properties over 5,000 square feet in lot area, the fees are already identical. Other recommended housekeeping amendments address typos or minor clarifications.

### **What problem is the amendment designed to solve?**

The amendment is designed to simplify the required findings for a Certificate of Appropriateness application in order to improve the application process for both applicants and staff. Currently, there are 10 required findings for individual landmarks and 13 required findings for properties within historic districts. A few of the findings are duplicative and the language is overly complicated. This can lead to confusion, particularly with applicants who have not been through the preservation process before.

In 2013, the Minnesota Supreme Court ruled that these types of heritage preservation applications are subject to Minnesota State Statute 15.99, which requires municipalities to approve or deny written requests related to zoning within 60 days of receiving a complete application. In order to ensure consistency with this decision, some existing references to delays of decision have been recommended for amendment or deletion by the City Attorney's office.

As proposed by staff in the draft amendment text, the Heritage Preservation Commission would continue to be able to stay the release of a building, wrecking or demolition permit for up to 180 days

as a condition of approval for a Demolition of Historic Resource application. However, the reference to delaying a final decision that currently is noted in 599.350(b) has been removed. Considering that properties applying for a Certificate of Appropriateness must either already be designated or under interim protection, the delay of decision clause would be unnecessary. Regardless of this clause, the Heritage Preservation Commission has the power to continue an application if necessary, provided compliance with the 60-day law is ensured.

**What public purpose will be served by the amendment?**

With simpler findings, the intent of the application and the basis on which Heritage Preservation Commission approvals are made will be clearer to all parties involved. The staff review would remain the same, as projects would continue to be evaluated based on their consistency with the property's historic designation, adopted design guidelines, the *Secretary of the Interior's Standards for the Treatment of Historic Properties*, the preservation ordinance, comprehensive plan, and preservation policies in adopted small area plans.

The only documents that are currently referenced but would no longer be included within the required findings would be the Site Plan Review chapter of the zoning code. The majority of Certificates of Appropriateness applications do not require Site Plan Review, but those that do would need to complete a separate land use application process regardless, making the Heritage Preservation Commission finding unnecessary. For example, of 44 Certificates of Appropriateness applications in 2015, only 6 required Site Plan Review.

Additionally, staff is recommending a modification of the destruction finding to organize the existing paragraph into a multilevel list. This does not change the review but rather is intended to clarify the process by organizing the text in a different manner. Because these findings are identical to the Demolition of Historic Resource application findings, staff is recommending that those findings be amended into a multilevel list as well.

**What problems might the amendment create?**

Staff does not anticipate any problems that would be created by the proposed amendment.

**TIMELINESS**

**Is the amendment timely?**

The amendment is timely. In the last 5 years the Heritage Preservation Commission has reviewed an average of 38 Certificate of Appropriateness applications per year. In 2015, 44 Certificates of Appropriateness were reviewed by the Heritage Preservation Commission, the highest number since 2009.

**Is the amendment consistent with practices in surrounding areas?**

Staff reviewed a number of other preservation ordinances around the country. The results of that peer city research, summarized in a comparison table of the findings that are codified in city's preservation ordinances, can be found in the appendix. Nearly every city that was reviewed reference adopted design guidelines for preservation approvals and about half reference the *Secretary of Interior's Standards for the Treatment of Historic Properties*. None of the cities reviewed reference comprehensive plans or small area/neighborhood plans as basis for preservation reviews. While the language of preservation ordinances varies widely, the concepts of integrity, compatibility, and character are found in many of the

ordinances. Overall, the proposed amendment would be consistent with practices around the country related to preservation approvals.

**Are there consequences in denying this amendment?**

If this amendment were denied, the duplicative and extensive Certificate of Appropriateness findings would remain in place and other identified housekeeping revisions would remain unchanged.

**COMPREHENSIVE PLAN**

The amendment will implement the following applicable policies of *The Minneapolis Plan for Sustainable Growth*:

**Heritage Preservation Policy 8.1: Preserve, maintain, and designate districts, landmarks, and historic resources which serve as reminders of the city's architecture, history, and culture.**

- 8.1.1 Protect historic resources from modifications that are not sensitive to their historic significance.
- 8.1.2 Require new construction in historic districts to be compatible with the historic fabric.

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

This amendment will improve and adapt the preservation regulations to streamline and simplify the review process, while still protecting historic resources from insensitive modifications and requiring compatible new construction. The amendment is consistent with the above policies of the comprehensive plan.

**RECOMMENDATIONS**

The Department of Community Planning and Economic Development recommends that the Heritage Preservation Commission and City Council adopt staff findings to amend Title 23 of the Minneapolis Code of Ordinances, as follows:

**A. Text amendment to simplify the requirements for Certificate of Appropriateness applications.**

Recommended motion: **Approve** the text amendment.

Chapter 599 related to Heritage Preservation: *Heritage Preservation Regulations*

**ATTACHMENTS**

- 1. Ordinance amending Chapter 599, Heritage Preservation.
- 2. Peer City Research Comparison Table