

FREQUENTLY ASKED QUESTIONS ABOUT LOCAL HISTORIC DISTRICTS

We already have a National Register Historic District, why do we need to establish a local historic district?

There are three types of historic district designations: The National Register of Historic Places, the State Register of Historic Sites, and local historic districts. National and State Register designations are purely honorary. They do not protect historic properties from alteration or demolition. Local historic district designation is the only way to protect historic properties. This is done by adopting a historic district ordinance and appointing a historic district commission. The commission reviews work to the exterior of a resource in a district to ensure that original historic materials are retained and that a proposed project's design is in keeping with the massing, materials, style, and time period of the house.

In a community with a population of 5,000 or more, in order for a property to qualify for the state historic preservation tax credit, it must be located in a designated local historic district.

Can a property owner "opt out" of being included in a local historic district?

No. Michigan's *Local Historic Districts Act* declares historic preservation to be a public purpose. To that end, Michigan's Attorney General issued Opinion 6919 that states a community may not enact a historic district ordinance that requires the consent of an owner before a property is included in a local historic district. Once a community decides to establish a local historic district it must follow the standards and guidelines created by the U.S. Secretary of the Interior for the National Register of Historic Places. The Secretary's guidelines for determining historic district boundaries state that boundaries are based on geography, integrity, and the significance of the resource, not on political boundaries or ownership. They also state that "donut holes" cannot be cut in the district to intentionally exclude properties.

How old does my property have to be to be considered historic?

Age is just one consideration when determining if a property is historic. The U.S. Secretary of the Interior has developed eligibility criteria for the National Register of Historic Places that are also used for evaluating properties in local historic districts. According to the criteria, a historic resource is typically fifty years old or older though it can be younger if it has special significance. The resource should also be noteworthy for its association with a significant person or event, for its design or construction techniques, and/or for its information potential. A historic resource must also retain its physical integrity that is comprised of seven qualities: materials, design, workmanship, location, setting, feeling, and association.

What repairs can I do to my property that don't require me to go before the historic district commission?

Michigan's *Local Historic District Act* states that the historic district commission does not review ordinary maintenance. The Act defines ordinary maintenance as "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." For example, if you replace some rotted clapboards on the side of your house with clapboards of the same wood, width and thickness it would be ordinary maintenance. However, if you planned to remove your twenty-inch diameter porch posts and replace them with five-inch diameter posts you would be altering the appearance of the resource. That would constitute work and must be reviewed by the commission. In the Act, work is defined as "construction, addition, alteration, repair, moving, excavation, or demolition."

What is a Certificate of Appropriateness?

The historic district commission has four options when a project comes before it for review. It can table the project if more information is needed or it can issue a Certificate of Appropriateness, a Denial, or a Notice to Proceed. A **Certificate of Appropriateness** is a permit that states that the proposed work meets the *Secretary of the Interior's Standards for Rehabilitation* and is appropriate for the resource. A **Denial** means that the proposed work does not meet the Standards and is inappropriate for the style or time period of the building. A **Notice to Proceed** means that the work is inappropriate but the commission has found that the work is necessary to correct a public safety hazard, enable a major improvement project that will substantially benefit the community, or correct an act of God or of the government that has created a financial hardship for the owner.

Is work on "non-historic" resources in a local historic district reviewed by the Commission?

Yes. The commission reviews all work to the exterior of all resources in the district. A non-historic (non-contributing) resource is one that is less than fifty years old or a building that is over fifty years old that has lost its integrity. The commission applies the same standards to all resources in the district. Typically, because historic material does not exist or has been lost, when the commission reviews work on non-historic buildings it is looking at issues like size, massing, and placement to determine how these affect the adjacent resources and the district overall.

Once my property is included in a local historic district, do I have to restore my house back to the way it was when it was originally built?

No. When reviewing proposed work in the local historic district, the historic district commission uses the *Secretary of the Interior's Standards for Rehabilitation*. The Secretary has guidelines for four treatments that can be applied to historic buildings: preservation, restoration, rehabilitation, and reconstruction. Rehabilitation is defined as "the process of returning a property to a state of utility, through repair, or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property what are significant to its historic, architectural and cultural values." The purpose of local historic district designation is to retain as much of the original historic material that existed in the district at the time it was established while still making the resource comfortable and useful for modern living. The restoration treatment, which would restore a property to the way it looked during a specified time period, applies to museum quality projects not properties in local historic districts.

In addition, the historic district commission only reviews work that is initiated by the property owner. Unless lack of repair has led to demolition by neglect, the commission has no authority to require that any work to be done to a property.

Is work on the interior of a building reviewed by the historic district commission?

No. The historic district commission only reviews work to the exterior of a resource. If the work you are doing on the interior will affect the exterior of the resource, such as closing up a window or moving a doorway, you may have to show the commission the plans for the interior work to explain why the changes are being made to the exterior. This would be viewed as supporting documentation. The commission does not review interior work.

Are yard or landscape features reviewed by the Commission?

Yes. Michigan's *Local Historic District Act* includes open space in the definition of a historic resource. It defines open space as "undeveloped land, a naturally landscaped area, or a formal or

man-made landscaped area that provides a connective link or a buffer between other resources." Significant historic landscape features that the commission will review should be identified when the district is established. This could include large trees that line the streets of a subdivision, historic fences, drive and walk ways, stone walls, old shrubs that define property lines in a neighborhood, a historic garden designed by a known landscape architect, a park or green, an orchard or the farmland associated with a farmstead. The key word is **significant**. The commission does not review every plant or garden but it does review major historic landscape features or landscape features that have been determined to be character defining for the district.

Can the Commission tell me what color to paint my house?

There is no "yes or no" answer to this question. Some communities do regulate paint colors while others do not. If paint color has been documented to be a significant feature of the historic district then the commission should review it. For example, a 1910 subdivision may have had a rule that all house trim had to be painted one of five colors. Or, Henry Ford might have built a subdivision of worker's housing in which every house was painted white with green trim. Typically, however, paint is viewed as a temporary application that does not damage original material and therefore is not regulated. It is not appropriate to regulate paint colors just to give the district a "historic" look without supporting documentation as to the significance of the paint colors. As an alternative to regulation, a commission can develop a palette of paint colors that are appropriate for the style and time period of the houses in the district and make it available to property owners.

Isn't it more expensive to preserve historic features than to replace them?

There is no "yes or no" answer to this question since it depends on the feature, its design, and material. However, there are some things that a property owner can do to ensure that they are getting the best advice and best price when repairing historic features. First, it is important to get an estimate on the work from a contractor that has experience working with historic resources. Contractors without historic preservation experience typically recommend wholesale replacement of historic materials because they do not have an understanding of how they work or where to get them. Sometimes more simple solutions that are more cost effective can be found. The Michigan Historic Preservation Network's Construction Trades Council provides information on contractors with historic preservation experience. Second, it is important to find companies that manufacture features that are compatible with historic buildings at reasonable costs. Such companies can be found through the Internet or advertisements in magazines like the *Old House Journal*. You may not be able to walk into a chain home improvement store like Home Depot or Lowe's to get the material you need, though even they are beginning to carry more products for historic buildings. Third, preservation isn't about the cheap quick fix, it is about investing in a property so that it will withstand the test of time. Investing in quality materials up front is often more cost effective in the long run. After all, the wood windows in a historic home have probably been in service for over a hundred years—and that is a pretty good return on the initial investment.

Are demolitions allowed in local historic districts?

Yes. The historic district commission can issue a Notice to Proceed for demolition of a building. However, the commission must find that retaining the resource is a hazard to public safety, will deter a major improvement project of significant benefit to the public, or cause undue financial hardship to the property owner due to an action beyond the owner's control, such as an act of God or a governmental action, created the hardship. A building can also be demolished if it is determined not to be historically significant or if it has lost its historic integrity.

Is vinyl an appropriate siding for a historic building in a local historic district?

No. The purpose of the district is to preserve as much original material as possible. The *Secretary of the Interior's Standards for Rehabilitation* state that historic materials should be repaired rather than replaced. So if the property has wood siding it should be repaired and painted rather than

covered over with vinyl. In addition, historic features, details, and trim are often removed when vinyl siding is applied which violates the *Secretary's Standards*. Use common sense when considering vinyl siding. Vinyl siding can trap in water vapor and hide serious problems that result from moisture and condensation. It also burns more rapidly than wood. While vinyl companies claim that vinyl is maintenance free and lasts about twenty years, experience has shown that it only lasts about ten years and that it does fade, warp, blow off, and require repair. Typically, wood siding lasts five to ten times longer than vinyl. Two good paint jobs cost about the same as the installation of vinyl siding. Vinyl siding is a quick fix that doesn't preserve original material or provide lasting value—and that is contrary to the purpose of local historic district designation.

Does the commission review work done on the back of a building or work that can't be seen from the public right of way?

Yes. According to Public Act 169 of 1970, the commission reviews ANY work to the exterior of the building—it does not distinguish as to the location of the work.

Are there penalties for not getting a Certificate of Appropriateness from the Commission or for not doing work appropriately?

Yes. Michigan's *Local Historic District Act* enables a local unit of government to charge a maximum fine of \$5,000 for inappropriate work in the district. The individual community determines the level of the fines that are imposed. The historic district commission can also require that the inappropriate work be undone or modified to meet the *Secretary's Standards*. In extreme situations, the historic district commission can get a court order from the circuit court to have the inappropriate work corrected. If the property owner does not comply with the court order then the commission can have the work done and the local unit of government can charge the owner for the work or levy a special assessment against the property.

Will local historic district designation hurt my property values?

No. A number of states across the country, including Texas, Georgia, Wisconsin, Virginia, and Michigan, have conducted studies comparing property values in a designated local historic district to the property values in a comparable non-designated district. The results are consistent. Property values never decrease in designated districts. They sometimes remain the same but more typically they increase—sometimes significantly. In the Heritage Hill Historic District in Grand Rapids, where whole blocks of the neighborhood were once slated for demolition under urban renewal, property values increased 1200% between 1974 and 2002. Local historic district designation is regarded as a protection on the investments made to properties in the district. Because reviewing work in the district stabilizes the neighborhood, historic districts become desirable locations and resale values also increase.

Are there tax breaks available to property owners in local historic districts?

Yes. In 1999, the state of Michigan established the state historic preservation tax credit that enables property owners or long-term lessees to claim a tax credit of up to 25% of qualified rehabilitation expenditures. Eligible work includes not only restoring historic features, but also work such as updating furnaces, installing air conditioning, or applying a new roof. To qualify for the tax credit, a property must be a contributing resource in a local historic district in communities with a population of over 5,000. (In communities with a population of less than 5,000 the property must be listed on the National or State Register or be a contributing resource in a National Register historic district.)

Can a property owner “opt out” of having his property reviewed by the historic district commission if he/she does not intend to use the state preservation tax credits?

No. A property owner cannot “opt out” of having his/her property reviewed by the commission once a local historic district has been designated. One of the purposes of the historic district ordinance is to ensure that due process is followed for every person that owns property in a local historic district. While one of the qualifications of participating in the state tax credit program is that a property must be a contributing resource in a local historic district in communities with a population of 5,000 or over, the state tax credit program is a separate incentive program. State preservation tax credit projects undergo review by the state’s tax credit coordinator. This is a separate review from, and not contingent upon, the historic district commission’s review. Whether you intend to use the tax credit program or not, any work done in a district must be reviewed by the commission.

Once my house is in a designated local historic district, if I invest in my home by making improvements and my property values increase, will I have to pay more in property taxes?

No. In Michigan, Proposal A of 1994 provides for annual increases based on a consumer price index. Inclusion in a local historic district will not be reflected in the homes assessed value. In addition, under the Mathieu-Gast Act (MCL 211.27 (2)) a tax assessor cannot consider any increase in the true cash value of the property resulting from normal repair, replacement, or maintenance until the property is sold.

Is it possible to expand or modify a historic district or to remove one once it is created?

Yes. Section 14 of Public Act 169 of 1970, as amended establishes the procedure for modifying a district boundary, establishing a new district or eliminating a district. It is basically the same procedure set forth in Section 3 of the Act for creating a historic district and requires that a study committee be appointed and research be conducted. If a community wants to eliminate a district then the study committee report must show how the district has lost its integrity, is no longer significant in the way it was when the district was created, or that there were defective procedures in its establishment.

Our community has a historic district ordinance in place so why don’t the properties in our local historic district qualify for the state preservation tax incentive?

There are a number of communities in Michigan that have passed historic district ordinances that are not in compliance with the state enabling law. Some of these ordinances were passed years ago and have not been updated to incorporate the changes that have occurred in the state enabling law since 1970. Other ordinances contain voluntary review or owner consent clauses that are not pursuant to the law. The SHPO determines if an ordinance is in compliance with Public Act 169 of 1970, as amended. If an ordinance is found to be not in compliance, then the property owners cannot participate in the state tax incentive program until the ordinance is modified to meet the requirements of Public Act 169.