

**AN ORDINANCE ESTABLISHING A HERITAGE PRESERVATION
COMMISSION AND GRANTING AUTHORITY TO RECOMMEND
DESIGNATION OF HISTORIC PRESERVATION SITES.**

**THE CITY COUNCIL OF THE CITY OF _____, MINNESOTA DOES
ORDAIN:**

Section 1. The Ordinance Code of the City of _____ is hereby amended by the addition of the following new Section xxx, as follows:

SECTION xxx – HISTORIC PRESERVATION COMMISSION

xxx.01. **Declaration of Public Policy and Purpose.** The Council of the City of _____ hereby declares as matter of public policy that the preservation, protection, perpetuation, promotion and use of areas, places, buildings, structures, lands, districts and other objects having a special historical, community or aesthetic interest or value is a public necessity and is required in the interest of health, prosperity, safety and welfare in the community. To this end, the Heritage Preservation Commission is created and charged with the stewardship of _____'s heritage. The purposes of this ordinance are to:

- a) Safeguard the heritage of the City of _____ by preserving properties which reflect elements of the City's cultural, social, economic, political, visual, or architectural history:
- b) Protect and enhance the City of _____'s appeal and attraction to residents, visitors, and tourists, while enhancing it's economic viability through the protection and promotion of it's unique character as related to its history and heritage;
- c) Enhance the visual and aesthetic character, diversity and interest of the City of _____;
- d) Foster civic pride in the beauty and notable accomplishments of the past;
- e) Promote the preservation and continued use of historic properties for the education and general welfare of the people of the City of _____; and
- f) Provide educational opportunities on heritage preservation, act in an advisory capacity to its citizens, accept gifts and contributions for heritage preservation, and coordinate activities with various related groups.

xxx.03 Definitions. As used herein,

Subd. 1. Heritage Preservation Site. Any area, place, building, structure, land, district, or other object, which has been duly designated as a Heritage Preservation Site pursuant to xxx.xx.

Subd. 2. The City of _____ Historic Design Guidelines. The established criteria by which any proposed changes (within designated areas), including architectural or site modifications shall be judged.

Subd. 3. Heritage Preservation Landmark. Any individual property, parcel, place, building, structure, work of art, or other object that has been determined to be historically, culturally or architecturally significant and has been locally designated as a Heritage Preservation Landmark pursuant to xxx.xx of this Ordinance.

Subd. 4. National Register of Historic Places. The nation's official list of properties worthy of preservation designated by the United States Department of Interior, National Park Service. Nominations of properties within Minnesota to this list are made through the auspices of the State Historic Preservation Officer, Minnesota Historical Society.

xxx.05. Heritage Preservation Commission Established.

Subd. 1. Members. There is hereby created and established a City of _____ Heritage Preservation Commission (hereinafter, the "Commission") which shall consist of:

- a) Seven (7) voting members to be appointed by the Mayor, by and with the advice and consent of the City Council.
- b) One member of the City Council and one resident (residing outside of the city limits) shall be non-voting Advisory Members of the Commission.
- c) Any member (with the exception of the advisory members) appointed to serve on the Commission shall be a resident of the City of _____ and shall have a demonstrated interest, competence or knowledge in historic preservation. If available in the community and willing to serve, at least two (2) members of the Commission shall be preservation-related professionals, including the professions of history, architecture, architecture history, archaeology, planning, real estate, design, building trades, landscape architecture, or law. One member of the Commission must be a designated representative of the _____ County Historical Society, if available, pursuant to Minnesota Statutes 471.193 Subd. 5.

Subd. 2. Term. The Mayor and City Council shall initially appoint:

- a) Two (2) members to serve a term of one (1) year initially,
- b) Two (2) members to serve a term of two (2) years initially,
- c) Three (3) members to serve a term of three (3) years, and
- d) Two (2) Advisory Members, one for a two (2) year term and one for a three (3) year term.

Terms of office shall expire the first day of January in the year following their last full year of appointment. All subsequent appointments shall be for a term of three (3) years. Members may be re-appointed for consecutive terms.

In the event of a vacancy, the vacancy for the unexpired term shall be filled in the same manner as the appointment was originally made. The Mayor shall appoint a person to fill the vacancy for the remainder of the term within 45 days after the day on which the vacancy occurred. If a vacancy occurs in a term with less than 45 days remaining, the Mayor may allow the term to expire without appointing a person to fill the vacancy; after which he shall appoint a member for the full term.

Subd. 3. Membership Compensation. Members will not receive a salary for their services, but will be compensated for any approved expenses incurred in the performance of their duties.

Subd. 4. Commission Meetings. The Commission shall meet at least once every 30 days. The Commission shall hold its first meeting within 45 days after the day on which this Ordinance takes effect. At the first meeting the members of the Board shall enact rules and regulations concerning the following business:

- a) The time, dates and places of future meetings.
- b) Election of Commission Officers.
- c) Voting and quorum requirements.

Subd. 5. Organization. The Commission when formed shall elect from its members such officers, as it may deem necessary. The Commission shall have the power to designate and appoint from its members various committees. The Commission shall make such by-laws as it may deem advisable and necessary for the conduct of its affairs and for the purpose of carrying out the intent of this Ordinance which are not inconsistent with the laws of the City of _____ and the State of Minnesota.

xxx.07. Designation of Historic Preservation Sites.

Subd. 1. Reports. The Commission shall ensure that:

- a) The annual report is prepared by October 31st of each year as required in accordance with Minnesota Statutes 471.193 Subd. 6 for submission to the Minnesota State Historic Preservation Office and shall file a copy with the City Administrator for distribution to the City Council.
- b) An updated list of all areas, places, buildings, structures, lands, districts, or other objects which have been designated as Heritage Preservation Sites.
- c) An updated catalogue of all known publications, articles, books, pamphlets, policies, or other materials having a direct bearing on the Heritage Preservation Program for the City of _____ shall be kept and made reasonably available by City staff at City Hall.
- d) The Commission will work in cooperation with the _____ Area Historical Society to fulfill these requirements.

The City Council upon request of the Commission may direct the City staff to aid in the preparation of studies which catalog areas, places, buildings, structures, lands, districts, or other objects to be considered for designation as Heritage Preservation Sites.

Subd. 2. Criteria. All Heritage Preservation Sites previously designated by the City of _____ shall continue their designation under this ordinance unless the Commission specifically finds that any such sites do not meet the designation criteria provided in this subdivision.

- a) Its character, interest, or value as part of the development, heritage, or cultural characteristics of the City of _____, State of Minnesota, or the United States.
- b) Its location as a site of a significant historic event.
- c) Its identification with a person or persons who significantly contributed to the culture and development of the City of _____.
- d) Its embodiment of distinguishing characteristics of an architectural style, period, form or treatment.
- e) Its identification as work of an architectural or master builder whose individual work has influenced the development of the City of _____.

- f) Its embodiment of elements of architectural design, detail, material, or craftsmanship which represent a significant architectural innovation.
- g) Its unique location, scale or other physical characteristics representing an established and familiar visual feature of a neighborhood, a district, the community, or the City of _____.

Subd. 3. Proposed Program for Preservation. For each Heritage Preservation Site recommended to the City Council, a proposed program for rehabilitation and preservation shall be created. The United States Secretary of the Interior Standards for Treatment of Historic Properties shall be among the standards used to create such a program. For any site within downtown _____, the City of _____ Downtown Guidelines will also be used as a standard of guidance.

Subd. 4. Hearings. Prior to the Commission recommending to the City Council any area, place, building, structure, land, district, or other object for designation as a Heritage Preservation Site, the Commission shall hold a public hearing and seek the recommendations of all concerned citizens. Prior to such hearing, the Commission shall cause to be published in the City's official newspaper a notice of the hearing at least ten (10) days prior to the date of the hearing, and notice of the hearing shall be mailed at least (10) days before the day of the hearing to all owners of record of the property or properties proposed to be designated as a Heritage Preservation Site and to all owners of property situated wholly or partly within 350 feet of the Heritage Preservation Site. The Commission may make such modifications concerning the proposed designation, as it deems necessary in consideration of the comments of the citizens.

Subd. 5. Findings and Recommendations. The Commission shall determine if a proposed site is eligible for designation as a Heritage Preservation Site as determined by the criteria specified in Subd. 2 of this section. In accordance with Minnesota Statutes 471.193, the Commission shall send to the Minnesota Historical Society/State Historic Preservation Office any proposed program for the preservation of the Heritage Preservation Site. The Commission may make such modifications concerning the proposed designation as it deems necessary in consideration of the comments of the Minnesota Historical Society/State Historic Preservation Office.

Subd. 6. Planning Commission Review. If the Commission recommends that the proposed site be designated as a Heritage Preservation Site, the Commission shall transmit to the City Planning Commission its recommendation, including boundaries, and the proposed program for the preservation of the Site. The Commission shall request from the Planning Commission its comments on the proposed designation as a Heritage Preservation Site relative to the City Zoning Code and Comprehensive Plan of the City of _____, and any other valid City planning considerations relevant to the proposed designation. The City

Planning Commission's comments shall become part of the official record concerning the proposed designation, as it deems necessary.

Subd. 7. Council Designation Hearings. The City Council, upon the request of the Commission, may, by ordinance, designate a Heritage Preservation Site. Such an ordinance shall require a two-thirds vote of all members of the City Council to be effective.

Subd. 8. Council Approval. The Commission shall make no application to the National Register or to the State of Minnesota for the designation of a historic property or district without the consent of the City Council.

Subd. 9. Identification Plaque. Those buildings or structures having been designated as Historic Preservation Sites by the City Council may be awarded a numbered plaque to be displayed on the exterior of the Site in full public view with the owner's consent. The plaque is to remain the property of the City and shall be removed by request of the Commission should the Site be altered as to destroy the historic integrity of the Site.

xxx.09. Review of Permits.

Subd. 1. Site Alteration Permit. A Site Alteration Permit shall be required for any alteration of any designated Heritage Preservation Site. The Commission shall review the City's issuance of a Site Alteration Permit to do any of the following in a Heritage Preservation Site in the City of _____. In addition to any other specifics the zoning administrator may require, the Site Alteration Permit application shall be accompanied by detailed plans including a property plan, building elevations and design details and materials as necessary to evaluate the request. Besides the Site Alteration Permit, regular City permits shall be required. Once the Commission has reviewed said permits, recommendation for approval or disapproval will be made to the City Council. Recommendation for approval or disapproval of the site alteration permit by the City Council will be accompanied with specific reasons why the alteration meet or do not meet the City's approved design guidelines and standards for reasonable rehabilitation related to the particular building or preservation site. The following are subject to a Site Alteration Permit:

- a) Painting, architectural details and other related exterior alterations.
- b) Additions or deletion of awnings, shutters, canopies, and similar appurtenances.
- c) Application or use of exterior materials of a different kind, type, color, or texture than those already in use which will substantially cover one or more sides of the structure. This provision applies to roofing as well as siding.

- d) Signs.
- e) Construction of a new building or auxiliary structure.
- f) Any addition to or alteration of an existing structure which increases the square footage in the structure or otherwise alters its size, height, contour, or outline.
- g) Change or alteration of a structure's architectural style.
- h) Alteration of a roof line.
- i) Demolition in whole or in part. This does not apply to structures required to be demolished in accordance with Minnesota Statutes, Chapter 463.

Subd. 2. City Actions. The Commission shall review and make recommendations to the City Council concerning City activity that could change the nature or appearance of a Heritage Preservation Site.

Subd. 3. Preservation Program. All decisions of the Commission with respect to this section shall be in accordance with the approved program for the rehabilitation of each Heritage Preservation Site. The Secretary of the Interior's Standards for Treatment of Historic Properties shall be used to evaluate applications for Site Alteration Permits as follows:

- a) A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.
- b) The historic character of a property will be retained and preserved. The removal of distinctive materials or alterations of features, spaces, and spatial relationships that characterize a property will be avoided.
- c) Each property will be recognized as physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.
- d) Changes to a property that have acquired historic significance in their own right shall be retained and preserved.
- e) Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.

- f) Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials. Replacement of mission features will be substantiated by documentary and physical evidence.
- g) Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
- h) Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.
- i) New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale, and proportion, and massing to protect the integrity of the property and its environment.
- j) New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

xxx.11. Findings. Before approving any permit or application required under xxx.09 of this ordinance, the Commission shall make findings based on the program for preservation of the Heritage Preservation Site in regard to the following:

- a) In the case of a proposed alteration or addition to existing buildings, the Commission shall make written findings on how the structure may be architecturally or historically affected. To be considered are the existing exterior appearance, building height, building width, depth, or other dimensions, roof style, type of building materials, ornamentation, paving and setback.
- b) In the case of the proposed demolition of a building prior to the approval of demolition, the Commission shall make written findings on the following:
 - 1. Architectural and historic merit of the building.
 - 2. The effect on surrounding buildings.
 - 3. The effect on any new proposed construction on the remainder of the building (in case of partial demolition) and on surrounding buildings.

4. The economic value or usefulness of the building as it now exists, or if altered or modified, in comparison with the value or usefulness of any proposed structures designated to replace the present building or buildings.

c) In the case of a proposed new building, the Commission shall make written findings on:

1. How the building will in itself, or by reason of its location on the property, materially affect the architectural or historic value of buildings on adjacent sites or in the immediate vicinity within the Heritage Preservation Site.

xxx.13. Appeal to the City Council. The applicant for a Site Alteration Permit (or any other party) aggrieved by the decision of the Commission relative to a Site Alteration Permit, shall, have a right to appeal such order and decision to the City Council, if appealed within ten (10) working days of the date of the Commission's order and decision.

The appeal shall be deemed perfected upon receipt by the City Clerk of a notice of appeal and statement setting the grounds for the appeal. The City Clerk shall transmit a copy of the notice of appeal and statement to the City Council and a copy to the Commission. The City Council may overturn the Commission's order and decision by a two-thirds vote of all members of the City Council. The Commission, in any written order denying a permit application, shall advise the applicant of the applicant's right to appeal to the City Council and shall include this section in all such orders.

xxx.15. Limitations. If within forty-five (45) days from the filing of a Site Alteration Permit application, the Commission has neither approved nor denied the Site Alteration Permit application, the plans and permit application shall be deemed to have been approved by the Commission. If all other requirements of the City have been met, the City shall authorize a permit for the proposed work. No permit shall be issued no work commenced in the event the Commission disapproves the Site Application Permit application in accordance with this ordinance.

xxx.17. Emergency Repair. In emergency situations where immediate repair is needed to protect the safety of a building or structure and its inhabitants, the City Administrator and City Building Official may approve the repair without prior Commission action. In the case of an emergency repair permit issued pursuant to this section, the City Administrator shall immediately notify the Commission of its action and specify the facts or condition constituting the emergency situation.

xxx.19. Enforcement. In case any building or structure subject to the regulation of this ordinance is to be erected or constructed, reconstructed, altered, repaired, converted, maintained, moved, or subjected to demolition in violation with this ordinance, the zoning administrator, in addition to any other remedies, may:

- a) Institute civil action for injunctive relief to stop, prevent, or abate a violation of this ordinance.
- b) Issue a stop work order to prevent a continuing violation of this ordinance.

Work which proceeds in violation of this ordinance, in contravention of a stop work order, or in disregard of a court ordered injunction shall be a public nuisance.

xxx.21. Additional Powers and Duties of the Commission. The Commission shall have the following powers and duties, in addition to those otherwise specified in this ordinance.

- a) Maintaining informational surveys of _____. The Commission shall conduct a continuing survey of all areas, places, buildings, structures, lands, districts, or other objects in the City of _____ which the Commission, on the basis of information available or presented to it, has reason to believe are significant sites regarding their preservation, restoration and rehabilitation.
- b) Community education. The Commission shall work for the continuing education of the citizens of the City of _____ focusing on civic and architectural heritage of the City. It shall keep current a public register of designated and proposed Heritage Preservation Sites along with the plans and programs that pertain to them.
- c) Contribution of gifts. The Commission may recommend to the City the acceptance of gifts and contributions to be made of the City and to assist the City staff in the preparation of applications for grant funds to be made through the City for the purpose of heritage preservation. Any contributions or gifts will be expended in the manner provided through the fiscal policy of the City of _____.
- d) Cooperation and coordination with the _____ Area Historical Society. The Commission will assign one member to service as a liaison to the _____ Area Historical Society. The Commission will coordinate and cooperate with the Historical Society to assure that duplication of services is avoided and that their mutual cooperation and joint ventures strengthens the preservation of the heritage and history of the City of _____.
- e) City planning and development records. The Commission shall select, on a continuing basis, City planning and development records, documents, studies, models, maps, plans, and drawings which represent a permanent record of the City history and development. These items shall be archived at City Hall.

xxx.23. Repository for Documents. The office of the City Clerk is designated as the repository for at least one copy of all studies, reports, recommendations and programs required under this section. It is recommended that a second copy be kept with the _____ Area Historical Society. These files will be maintained in accordance with Minnesota Statutes 138.17.

xxx.25. Recording of Heritage Preservation Sites. The office of the City Clerk shall record or file with the _____ County recorder the legal description of all properties designated as Heritage Preservation Sites by the City of _____.

Section 2. This ordinance shall be in full force and effect thirty (30) days from and after its passage and publication according to law.

Passed by the City Council of the City of _____, Minnesota, this
_____ day of _____, 200_.

Mayor

ATTEST:

City Administrator

Note: This sample ordinance is based on the ordinance establishing the City of Kenyon's historic preservation Program in Goodhue County.