

Chapter 8

BUILDINGS AND BUILDING REGULATIONS*

* **Cross References:** Community development, Ch. 11; fire prevention and protection, Ch. 13; flood protection, Ch. 14; building inspector's certifications for business licensing, § 16-13 et seq.; mobile homes and recreational vehicles, Ch. 17; dangerous structures, § 18-26 et seq.; unlawful noise from construction, § 18-95; planning, Ch. 23; signs, Ch. 26; soil erosion control, Ch. 27; streets, sidewalks and other public places, Ch. 29; subdivision regulations, Ch. 30; swimming pools, Ch. 31; utilities and services, Ch. 34; zoning, Ch. 38.

State Law References: State construction code act, MCL 125.1501 et seq.

Art. I. In General, §§ 8-1--8-15

Art. II. Building Code, §§ 8-16--8-35

Art. III. Electrical Code, §§ 8-36--8-100

Art. IV. Plumbing Code, §§ 8-101--8-115

Art. V. Mechanical Code, §§ 8-116--8-140

Art. VI. Property Maintenance Code, §§ 8-141--8-150

Art. VII. Rental Dwelling Registration, §§ 8-151--8-160

Art. VIII. Numbering of Buildings, §§ 8-161--8-199

Art. IX. Historic Districts, §§ 8-200--8-216

ARTICLE I.

IN GENERAL

Sec. 8-1. Right of entry and search warrant.

Whenever necessary to make an inspection to enforce any of the provisions of this Code, or whenever the building official or his authorized representative has reasonable cause to believe that there exists in any building or upon any premises any condition or Code violation which makes such building or premises unsafe, dangerous, hazardous, or harmful to the public health or welfare, the building official or his authorized representative may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the building official by this code; provided that if such buildings or premises be occupied, he shall first present proper credentials and request entry; and if such building or premises be unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If the owner or occupier of the premises fails to arrange entry or refuses entry, no inspection shall be made without the procurement of a search warrant from a judge or magistrate. The issuing official may consider any of the following factors, together with such other matters it deems pertinent to its decision as to whether a warrant shall issue:

- (1) Eyewitness account of violation;
- (2) Citizen complaints;
- (3) Tenant complaints;
- (4) Plain-view violations;
- (5) Violations apparent from city records;
- (6) Property deterioration;
- (7) Age of property;
- (8) Nature of alleged violation;
- (9) Similar properties in the area;
- (10) Documented violations of similar properties in the area;
- (11) Passage of time since last inspection; and
- (12) Previous violations on the property.

Cause for issuance of a warrant shall be deemed to exist in light of reasonable legislative and administrative standards if it is shown that there is reason to believe that the condition of a particular property violates a city ordinance.

(Ord. No. 464, § 1, 11-6-89)

Editors Note: Ord. No. 464, § 1, adopted Nov. 6, 1989, amended this chapter by adding provisions to be included as Art. IX, § 8-171; inasmuch as such provisions pertain generally throughout this chapter, they have been codified as § 8-1 at the discretion of the editor.

Secs. 8-2--8-15. Reserved.

ARTICLE II.

BUILDING CODE

Sec. 8-16. Agency designated.

Pursuant to the provisions of the Michigan Building Code, in accordance with section 8b(6) of Act 230, of the Public Acts of 1972, as amended, the building official of the city is hereby designated as the enforcing agency to discharge the responsibility of the city under Act 230, of the Public Acts of 1972, as amended. The city assumes responsibility for the administration and enforcement of said Act throughout its corporate limits. (Code 1977, § 8.2; Ord. No. 406, § 1, 2-21-83; Ord. No. 442, § 1, 3-17-86; Ord. No. 466, §§ 1, 2, 12-18-89; Ord. No. 504, 4-5-93; Ord. No. 601, § 1, 11-20-00)

State Law References: Authority to adopt technical codes by reference, MCL 117.3(k), MSA 5.2073(k).

Secs. 8-17--8-35. Reserved.

Editors Note: Ord. No. 601, § 4, adopted Nov. 20, 2000, repealed sections 8-17, 8-18, in their entirety. Former sections 8-17, 8-18 pertained to references in code and changes in code, respectively, and derived from the Code of 1977, §§ 8.3, 8.4; and Ord. No. 466, § 3, adopted Dec. 18, 1989.

ARTICLE III.

ELECTRICAL CODE*

* **Editors Note:** Ord. No. 602, § 4, adopted Nov. 20, 2000, repealed divisions 1--3, sections 8-37--8-40, 8-56--8-70, 8-86--8-89, in their entirety. Former divisions 1--3 pertained to general provisions, permits and inspections, and licensing, respectively, and derived from Ord. No. 372, §§ 1(5602--5622), adopted March 16, 1981.

Sec. 8-36. Agency designated.

Pursuant to the provisions of the Michigan Electrical Code, in accordance with section 8b(6) of Act 230, of the Public Acts of 1972, as amended, the electrical official of the city is hereby designated as the enforcing agency to discharge the responsibility of the city under Act 230, of the Public Acts of 1972, as amended. The city assumes responsibility for the administration and enforcement of said Act throughout its corporate limits. (Ord. No. 372, § 1(5601), 3-16-81; Ord. No. 419, § 1, 12-19-83; Ord. No. 449, § 1, 3-16-87; Ord. No. 472, 5-7-90; Ord. No. 505, 4-5-93; Ord. No. 602, § 1, 11-20-00)

State Law References: Authority to adopt technical codes by reference, MCL 117.3(k), MSA 5.2073(k).

Secs. 8-37--8-100. Reserved.

ARTICLE IV.

PLUMBING CODE*

* **Cross References:** Water generally, § 34-66 et seq.; sewer service, § 34-101 et seq.

State Law References: Regulation of plumbing and licensing of plumbers, MCL 338.901 et seq., MSA 14.451 et seq.; local rules and regulations, MCL 338.904, MSA 14.454.

Sec. 8-101. Agency designated.

Pursuant to the provisions of the Michigan Plumbing Code, in accordance with section 8b(6) of Act 230, of the Public Acts of 1972, as amended, the plumbing official of the city is hereby designated as the enforcing agency to discharge the responsibility of the city under Act 230, of the Public Acts of 1972, as amended. The city assumes responsibility for the administration and enforcement of said Act throughout its corporate limits. (Ord. No. 486, § 1, 11-18-91; Ord. No. 599, § 1, 11-20-00)

Secs. 8-102--8-115. Reserved.

Editors Note: Ord. No. 599, § 4, adopted Nov. 20, 2000, repealed sections 8-102, 8-103, in their entirety. Former sections 8-102, 8-103 pertained to references in code and local provisions, respectively, and derived from Ord. No. 486, § 1, adopted Nov. 18,

1991.

ARTICLE V.

MECHANICAL CODE*

* **State Law References:** Forbes mechanical contractors act, MCL 338.971 et seq., MSA 18.86(1) et seq.

Sec. 8-116. Agency designated.

Pursuant to the provisions of the Michigan Mechanical Code, in accordance with section 8b(6) of Act 230, of the Public Acts of 1972, as amended, the mechanical official of the city is hereby designated as the enforcing agency to discharge the responsibility of the city under Act 230, of the Public Acts of 1972, as amended. The city assumes responsibility for the administration and enforcement of said Act throughout its corporate limits.

(Ord. No. 357, §§ 1, 2, 3-17-80; Ord. No. 443, §§ 1, 2, 3-17-86; Ord. No. 467, §§ 1, 2, 12-18-89; Ord. No. 600, § 1, 11-20-00)

State Law References: Authority to adopt technical codes by reference, MCL 117.3(k), MSA 5.2073(k).

Secs. 8-117--8-140. Reserved.

Editors Note: Ord. No. 600, § 4, adopted Nov. 20, 2000, repealed sections 8-117, 8-118, in their entirety. Former sections 8-117, 8-118 pertained to references in code and permit fees, respectively, and derived from Ord. No. 357, § 3, adopted March 17, 1980; and Ord. No. 443, § 3, adopted March 17, 1986.

ARTICLE VI.

PROPERTY MAINTENANCE CODE

Sec. 8-141. Adoption of BOCA National Property Maintenance Code.

Pursuant to the provisions of Act 204 of the Public Acts of 1977, as amended, of the State of Michigan, the BOCA National Property Maintenance Code, 1990 Edition, as published by the Building Officials and Code Administrators International, Inc., be and is hereby adopted as the property maintenance code of the City of Owosso, for the control of buildings and structures as herein provided; and each and all of the regulations of the BOCA Property Maintenance Code, 1990 Edition, are hereby referred to, adopted and made a part hereof, as if fully set out in this article. Three (3) complete printed copies of the property maintenance code adopted by this section are available for the public use and inspection at the office of the city clerk.

(Ord. No. 407, § 1, 2-21-83; Ord. No. 468, § 1, 12-18-89; Ord. No. 506, 4-5-93)

Cross References: Authority to adopt technical codes by reference MCL 117.3(k), MSA 5.2073(k).

Sec. 8-142. Changes in Code.

The following chapters, articles or sections of the BOCA Property Maintenance Code adopted by the provisions of this article are hereby added, amended or deleted as hereinafter set forth. Subsequent articles, divisions, and sections numbers used in this section shall refer to the like numbered articles, divisions, and

sections of such property maintenance code unless specified otherwise.

Section PM-100.1 is hereby amended to read as follows:

"PM-100.1. Title. These regulations shall be known as the Property Maintenance Code of the City of Owosso, hereinafter referred to as this Code."

Section PM-109.2 is hereby amended to read as follows:

"PM-109.2. Penalty. Any person, firm or corporation, who shall violate any provision of this Code is responsible for a municipal civil infraction in section 1-8(c), plus costs and other sanctions, for each infraction. Repeat offenses shall be subject to increased fines as provided by section 1-8(c)(2) of the Owosso City Code. The building inspector, building official and code enforcement officer are hereby designated as the authorized city official to issue municipal civil infraction citations and municipal civil infraction violation notices pursuant to this section."

Section PM-111.2.1 is hereby amended to read as follows:

"PM-111.2.1. Membership. The Owosso Building Board of Appeals shall hear all appeals of this Ordinance."

Section PM-301.8 is hereby deleted from this Code.

Section PM-302.12 is hereby amended to read as follows:

"PM-302.12. Insect screens. During the period from April 15 to November 15, every door, window and other outside opening used or required for ventilation purposes serving any building containing habitable rooms, food preparation areas, food service areas, or any areas where products used in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with approved, tightly fitting screens of not less than sixteen (16) mesh per inch and every swinging door shall have a self-closing device in good working condition."

Sections PM-601.1 and *PM-601.2* are hereby amended to read as follows:

"PM-601.1. Residential buildings. Every dwelling shall be provided with heating facilities capable of maintaining a room temperature of sixty-five (65) degrees F. (18 degrees C) at a level of three (3) feet (914 mm) above the floor and a distance of three (3) feet (914 mm) from the exterior walls in all habitable rooms, bathrooms, and toilet rooms based on the outside design temperature required for the locality by the mechanical code listed in Appendix A.

Every owner and operator of any building who rents, leases or lets one (1) or more dwelling unit, rooming unit, dormitory or guest room on terms, either express or implied, to furnish heat to the occupants thereof shall supply sufficient heat during the period from September 1 to May 1 in all habitable rooms, bathrooms, and toilet rooms during the hours between 6:30 a.m. and 10:00 p.m. of each day and not less than sixty (60) degrees F. (sixteen (16) degrees C) during other hours. The temperature shall be measured at a point three (3) feet (914 mm) above the floor and three (3) feet (914 mm) from

the exterior walls. When the outdoor temperature is below the outdoor design temperature required for the locality by the mechanical code listed in Appendix A, the owner or operator shall not be required to maintain the minimum room temperatures, provided the heating system is operating at full capacity, with supply valves and dampers in full open position."

"PM-601.2. Nonresidential structures. Every enclosed occupied work space shall be supplied with sufficient heat during the period from September 1 to May 1 to maintain a temperature of not less than sixty-five (65) degrees F. (eighteen (18) degrees C) during all working hours. The temperature shall be measured at a point three (3) feet (914 mm) above the floor and three (3) feet (914 mm) from the exterior walls."

Section PM-602.4 is hereby added and reads as follows:

"ES-602.4. Safety fuses. All existing electrical services using Edison Base or plug-type fuses shall replace those fuses with Type S fuse adaptor and Type S fuses."
(Ord. No. 407, § 4, 2-21-83; Ord. No. 422, § 1, 5-7-84; Ord. No. 468, § 2, 12-18-89; Ord. No. 506, 4-5-93; Ord. No. 530, § 1, 5-15-95)

Secs. 8-143--8-150. Reserved.

ARTICLE VII.

RENTAL DWELLING REGISTRATION*

* **Editors Note:** Ord. No. 704, § 1, adopted March 16, 2009, amended article VII in its entirety to read as herein set out. Former article VII, §§ 8-151--8-154, pertained to similar subject matter.

Sec. 8-151. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Building inspector means the official who is charged with the administration and enforcement of this Code, or any duly authorized representative by the city manager.

Occupant includes all tenants, lessees and persons residing within a rental dwelling or rental unit.

Owner means any person, firm, corporation or other legal entity having a legal or equitable interest in the premises.

Owner's representative means a person or representative of a corporation, partnership, firm, joint venture, trust, association, organization or other entity designated by the owner of the premises as responsible for operating such property in compliance with all the provisions of the city's ordinances.

Rental dwelling unit means any single structure, building or other facility promised and/or leased to a residential tenant for use as a home, residence or sleeping unit. Such term includes, but is not limited to, one-

family or two-family dwellings, multiple dwellings and apartment units.
(Ord. No. 704, § 1, 3-16-09)

Sec. 8-152. Purpose of standards.

The city recognizes a compelling interest in establishing standards for the maintenance of sanitary and safe residential rental structures in the city as an important factor for the general health, safety and welfare of all of its citizens. This article is designed to promote the continued maintenance of quality and safe rental properties and to enhance and maintain property values.
(Ord. No. 704, § 1, 3-16-09)

Sec. 8-153. Applicability; exclusions.

(a) This article shall apply to any rental dwelling unit, or part thereof, which is occupied by persons pursuant to any oral or written rental or lease agreement or other valuable compensation. Such dwelling shall include, but not be limited to, single-family dwellings, multiple-family dwellings, rooming houses and boardinghouses. No person shall lease or rent a rental dwelling unit unless they have registered their property.

(b) This article does not apply to jails, hospitals, nursing homes, convalescent homes, foster homes or temporary group shelters provided by legal nonprofit agencies which are inspected, certified and/or licensed by the state.
(Ord. No. 704, § 1, 3-16-09)

Sec. 8-154. Registration.

(a) *Compliance required.* All rental dwelling unit owners are required to bi-annually register their rental dwelling units pursuant to this article and shall comply with the following:

- (1) All existing rental dwelling units property shall be registered within one hundred eighty (180) days of the effective date of the ordinance.
- (2) All newly constructed rental dwelling units shall be registered prior to any use or occupancy as a rental dwelling unit and every year thereafter.
- (3) A new owner shall register a rental dwelling unit, which is sold, transferred or conveyed, within thirty (30) days of the date of the closing of such sale. Any existing registration shall be transferred to the new owner and shall be valid until its expiration or revocation for noncompliance with city codes and ordinances.
- (4) All existing nonrental dwelling units, which are converted to rental dwelling units, shall be registered prior to the date on which the property is first occupied for rental purposes and bi-annually thereafter. Failure to comply will result in penalties as described in this article or by resolution.

(b) *Applications.*

- (1) Applications for registration shall be made in such form and in accordance with such instructions as may be provided by the building inspector designated by the city manager and shall include at least the following information:
 - a. The name, address and telephone number of the owner (no post office box shall be accepted).
 - b. The name, address and telephone number of the owner's representative, if the rental property owner has opted to appoint a representative.
- (2) Upon registration, the owner shall be responsible for notifying the building inspector of any change of address of either the owner or owner's representative.

(c) *Fee.* At the time of registration of the dwelling unit, there will be a prescribed fee, as adopted by resolution. Any unpaid registration fees shall become a lien on the property immediately and collected as an assessment pursuant to city ordinance. An owner shall not have a property as a rental dwelling unless it has registered with the city.

(Ord. No. 704, § 1, 3-16-09)

Sec. 8-155. Applicable standards.

The standards used to determine rental property and dwelling unit compliance with city codes and ordinances shall be the International Property Maintenance Code, as adopted and amended by the city council.

(Ord. No. 704, § 1, 3-16-09)

Sec. 8-156. Noncompliance with code.

- (a) The building inspector may enter rental dwelling units under any of the following circumstances:
 - (1) After the registration of the rental dwelling unit which shows the possibility of not complying with local or state law.
 - (2) Upon receipt of a written complaint from an owner, owner's representative or occupant that the premises is in violation of this article.
 - (3) Upon receipt of a report or referral from the police department, fire department, public or private school, or another public agency, or a failure to comply with this article.
 - (4) Upon evidence of an existing ordinance violation observed by the building inspector.
 - (5) At the request of the owner to determine compliance with the International Property Maintenance Code.
 - (6) If the proposed rental dwelling unit is being converted from a single-family home, the building inspector shall evaluate the property for public safety violations before first occupied for rental purposes.

(b) The building inspector may make an appointment with the owner or owner's representative of the rental dwelling unit. The owner or owner's representative must give the building inspector at least twenty-four (24) hours' notice when changing the scheduled appointment with an alternative date and time. The building inspector shall issue a written report noting any violations of this article or any other provision of the city's ordinances and shall provide a copy of the report to the owner or owner's representative. The building inspector shall direct the owner or owner's representative to correct violations within the time set forth in the report. A reasonable time for correcting violations shall be determined by the building inspector in light of the nature of the violations and all relevant circumstances, which shall not exceed sixty (60) days, unless correction of the violation within a 60-day period is impossible due to seasonal considerations. Upon request of the person responsible for correcting violations, the building inspector may extend the time for correcting violations, but not to exceed an additional thirty (30) days.

(c) The building inspector may charge a nominal fee that equals the actual administrative cost to enter premises as established by resolution. If the building inspector determines that a complaint was filed without a factual basis and with malice, a fee may be charged to the complainant.
(Ord. No. 704, § 1, 3-16-09)

Sec. 8-157. Fees.

Fees for registration of rental units and penalties shall be established by resolution. The fee schedule shall be available to the public from the city clerk. Any unpaid inspection fees shall become a lien on the property and collected as provided by law.
(Ord. No. 704, § 1, 3-16-09)

Sec. 8-158. Violations.

(a) If the owner or owner's representative does not correct a violation of any provision of this article, the building inspector may bring an action to seek the enforcement of this article by an appropriate legal remedy. Any structure not in compliance with this article is deemed a nuisance.

(b) Any owner or owner's representative of a rental dwelling unit who violates any section of this article for the first offense shall be responsible for a municipal civil infraction as provided for in section 1-8 of this Code with the fines as stated in subsection (c) below.

(c) The fines for municipal civil infractions for violating this article shall be: Two hundred dollars (\$200.00) per occurrence for the first offense; four hundred dollars (\$400.00) for a second offense if it occurs within two (2) years of the prior offense even if it occurs at the same time as the prior offense. Each day that a violation continues shall be a separate offense.

(d) The building inspector, building official, code enforcement officer and any other person designated by the city manager are hereby designated as the authorized individuals to issue municipal civil infraction citations for violations of this article.

(e) In addition to any penalties imposed by law, a finding of responsibility by the court for a violation of this article, the city shall be entitled to immediately revoke any existing certificate of compliance

and shall entitle the city to seek the issuance of a court order compelling the eviction of all persons and property upon the premises until a certificate of compliance is issued by the city.

(f) An owner or owner's representative may be charged with more than one (1) violation of the provisions of this article in a single complaint or municipal civil infraction, provided that each violation so charged relates to the same property.
(Ord. No. 704, § 1, 3-16-09)

Secs. 8-159--8-160. Reserved.

ARTICLE VIII.

NUMBERING OF BUILDINGS

Sec. 8-161. Required.

All buildings in the city shall bear a distinctive street number on the front at or near the front entrance of the premises in accordance with and as designated upon the street plan map on file in the office of the city engineer.
(Ord. No. 409, § 1(4.77), 7-18-83)

Sec. 8-162. Specifications.

The owners and occupants of all buildings in the city shall cause the correct numbers to be placed thereon in accordance with the street plan map. Such numbers shall be not less than two (2) inches wide and three (3) inches high, shall be facing the street and adjacent to the principal entrance, and in such position as to be plainly visible from the street.
(Ord. No. 409, § 1(4.78), 7-18-83)

Secs. 8-163--8-199. Reserved.

ARTICLE IX.

HISTORIC DISTRICTS*

* **Editors Note:** Ord. No. 598, § 1, adopted September 5, 2000, amended the Code by repealing former art. IX, §§ 8-200--8-216, and adding a new art. IX, §§ 8-200--8-215. Former art. IX pertained to similar subject matter, and derived from Ord. No. 577, adopted May 3, 1999.

Sec. 8-200. Short title.

This article shall be known and may be cited as the "historic districts ordinance."
(Ord. No. 598, § 1, 9-5-00)

Sec. 8-201. Definitions.

The following words, terms, and phrases, when used in this article shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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

Center means the Michigan Historical Center of the Michigan Department of State.

Certificate of appropriateness means the written approval of a permit application for work that is appropriate and that does not adversely affect a resource.

Commission means the city historic district commission created by the city pursuant to PA 169 of 1970 as amended.

Committee means a historic district study committee appointed by the city council.

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

Demolition by neglect means neglect in maintaining, repairing, or securing a resource that results in deterioration of an exterior feature of the resource or the loss of structural integrity of the resource.

Denial means the written rejection of a permit application for work that is inappropriate and that adversely affects a resource.

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

Historic preservation means the identification, evaluation, establishment, and protection of resources significant in history, architecture, archaeology, engineering, or culture.

Historic resource means a publicly or privately owned building, structure, site, object, feature, or open space that is significant in the history, architecture, archaeology, engineering, or culture of the city, county, state or the United States.

Notice to proceed means the written permission to issue a permit for work that is inappropriate and that adversely affects a resource, pursuant to a finding under section 8-208(f).

Open space means undeveloped land, a naturally landscaped area, or a formal or manmade landscaped area that provides a connective link or a buffer between other resources.

Ordinary maintenance means keeping a resource unimpaired and in good condition through ongoing minor intervention, undertaken from time to time, in its exterior condition. Ordinary maintenance does not change the external appearance of the resource except through the elimination of the usual and expected effects of weathering. Ordinary maintenance does not constitute work for purposes of this act.

Proposed historic district means an area, or group of areas not necessarily having contiguous boundaries, that has delineated boundaries and that is under review by a committee or a standing committee for the purpose of making a recommendation as to whether it should be established as a historic district or added to an established historic district.

Repair means to restore a decayed or damaged resource to a good or sound condition by any process. A repair that changes the external appearance of a resource constitutes work for purposes of this act.

Resource means one (1) or more publicly or privately owned historic or non-historic buildings, structures, sites, objects, features, or open spaces located within a historic district.

Standing committee means a permanent body established by the city council to conduct the activities of a historic district study committee on a continuing basis.

Work means construction, addition, alteration, repair, moving, excavation, or demolition. The definition of work specifically excludes painting and ordinary maintenance.
(Ord. No. 598, § 1, 9-5-00)

Sec. 8-202. Historic preservation as public purpose; purpose of article.

Historic preservation is declared to be a public purpose and the city council may by ordinance regulate the construction, addition, alteration, repair, moving, excavation, and demolition of resources in historic districts within the city limits. The purpose of this article shall be to do one (1) or more of the following:

- (1) Safeguard the heritage of the city by preserving one (1) or more historic districts in the city that reflects elements of the unit's history, architecture, archaeology, engineering, or culture.
- (2) Stabilize and improve property values in each district and the surrounding areas by protecting the value and preserving historic resources.
- (3) Foster civic beauty.
- (4) Strengthen the local economy.
- (5) Promote the use of historic districts for the education, pleasure, and welfare of the citizens of the city and of the state.
- (6) To take advantage of state tax credits available to owners of historic properties.

(Ord. No. 598, § 1, 9-5-00)

Sec. 8-203. Compliance required for construction, repair, demolition, etc.

There shall be no work performed on a resource within any designated historic district, unless such action complies with the requirements set forth in this chapter.

(Ord. No. 598, § 1, 9-5-00)

Sec. 8-204. Historic districts; establishment; study committee; duties; public hearing; notice; actions; availability of writings to public.

(a) The city, from time to time, may, by ordinance, establish one (1) or more historic districts. The historic district commission shall administer the historic districts. Before establishing a historic district, the city council shall appoint a historic district study committee. The committee shall contain a majority of persons who have a clearly demonstrated interest in or knowledge of historic preservation, and shall contain representation from one (1) or more duly organized local historic preservation organizations. The committee shall do all of the following:

- (1) Conduct a photographic inventory of resources within each proposed historic district following procedures established or approved by the center.
- (2) Conduct basic research of each proposed historic district and the historic resources located within that district.
- (3) Determine the total number of historic and nonhistoric resources within a proposed historic district and the percentage of historic resources of that total. In evaluating the significance of historic resources, the committee shall be guided by the selection criteria for evaluation issued by the United States Secretary of the Interior for inclusion of resources in the National Register of Historic Places, as set forth in 36 CFR part 60, and criteria established or approved by the center, if any.
- (4) Prepare a preliminary historic district study committee report that addresses at a minimum all of the following:
 - a. The charge of the committee.
 - b. The composition of the committee membership.
 - c. The historic district or districts studied.
 - d. The boundaries for each proposed historic district in writing and on maps.
 - e. The history of each proposed historic district.
 - f. The significance of each district as a whole, as well as a sufficient number of its individual resources to fully represent the variety of resources found within the district, relative to the evaluation criteria.
- (5) Transmit copies of the preliminary report for review and recommendations to the local planning body, to the center, to the Michigan Historical Commission, and to the state historic preservation review board.
- (6) Make copies of the preliminary report available to the public.

(b) Not less than sixty (60) calendar days after the transmittal of the preliminary report, the committee shall hold a public hearing in compliance with Act No. 267 of the Public Acts of 1976, as amended, being MCL sections 15.261 to 15.275. Public notice of the time, date, and place of the hearing shall be given in the manner required by Act No. 267 of the Public Acts of 1976, as amended. Written notice shall be mailed by first-class mail not less than fourteen (14) calendar days before the hearing to the owners of properties within the proposed historic district, as listed on the tax rolls of the city.

(c) After the date of the public hearing, the committee and the city council shall have not more than one (1) year, unless otherwise authorized by the city council, to take the following actions:

- (1) The committee shall prepare and submit to the city council a final report with its recommendations and the recommendations, if any, of the historic district commission and the planning commission. If the recommendation is to establish a historic district or districts, the final report shall include a draft of a proposed ordinance or ordinances.
- (2) After receiving a final report that recommends the establishment of a historic district or districts, the city council, at its discretion, may introduce and pass or reject an ordinance or ordinances. If the city council passes an ordinance or ordinances establishing one (1) or more historic districts, the city council shall file a copy of that ordinance or those ordinances, including a legal description of the property or properties located within the historic district or districts, with the register of deeds. The city council shall not pass an ordinance establishing a contiguous historic district less than sixty (60) days after a majority of the property owners within the proposed historic district, as listed on the tax rolls of the local unit, have approved the establishment of the historic district pursuant to a written petition.

(Ord. No. 598, § 1, 9-5-00)

Sec. 8-205. Historic district commission; establishment; appointment, qualifications, and terms of members; vacancy.

In order to execute the purposes of this article, the city council hereby appoints a historic district commission to serve as the governing body.

Each member of the commission shall reside within the city. The membership of the historic district commission shall consist of not less than seven (7) or more than nine (9) members. A majority of the members shall have a clearly demonstrated interest in or knowledge of historic preservation. The mayor, with the approval of the city council, shall appoint the members. Initial members shall be appointed within six (6) months after the ordinance establishing the commission is enacted. Members shall be appointed for three-year terms except the initial appointments of some of the members shall be for less than three (3) years so that the initial appointments are staggered and that subsequent appointments do not recur at the same time. Members shall be eligible for reappointment. A vacancy on the commission shall be filled within sixty (60) calendar days by an appointment made by the appointing authority. The city council shall appoint at least one (1) member from a list of citizens submitted by one (1) or more duly organized local historic preservation organizations. The commission shall include as a member, if available, a graduate of an accredited school of architecture who has two (2) years of architectural experience or who is an architect registered in this state.

(Ord. No. 598, § 1, 9-5-00)

Sec. 8-206. Rules of procedure; compensation; meetings; freedom of information.

(a) The commission shall adopt rules governing its procedure and the holding of regular meetings, subject to the approval of the city council. Special meetings may be held when called in the manner provided in the rules of the commission.

(b) The business that the commission may perform shall be conducted at a public meeting of the commission held in compliance with the Open Meetings Act, Act No. 267 of the Public Acts of 1976, as amended, being MCL sections 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976, as amended. A meeting agenda shall be part of the notice and shall include a listing of each permit application to be reviewed or considered by the commission.

(c) The members of the commission shall serve without compensation.

(d) The commission shall keep a record of its resolutions, proceedings, and actions. A writing prepared, owned, used, in the possession of, or retained by the commission in the performance of an official function shall be made available to the public in compliance with the Freedom of Information Act, Act No. 442 of the Public Acts of 1976, as amended, being MCL sections 15.231 to 15.246.
(Ord. No. 598, § 1, 9-5-00)

Sec. 8-207. Duties and powers.

It shall be the duty of the commission to review all plans for work in the historic district, and the commission shall have the power to pass upon such plans before a permit for such activity can be granted. In reviewing the plans, the commission shall follow the U.S. Secretary of the Interior's standards for rehabilitation and guidelines for rehabilitating historic buildings, as set forth in 36 CFR Part 67, or their equivalent as approved and established by the Michigan Historical Center of the Department of State.

Nothing in this section shall bar the commission from meeting in an emergency session should there occur a severe and imminent threat to the health, safety, welfare of the public when two-thirds (2/3) of the commission members decide that delay would be detrimental to efforts to lessen or respond to the threat.
(Ord. No. 598, § 1, 9-5-00)

Sec. 8-208. Permit required; completed application; certificate of appropriateness or notice to proceed; issuance; permit fee; appeal to review board and circuit court; plan review standards, guidelines and considerations; scope of review; preservation plan; approval; conditions; availability of writings to public; approval of minor work; finding of demolition by neglect; restoration or modification of work done without permit.

(a) A permit shall be obtained before any work affecting the exterior appearance of a resource is performed within a historic district or, if required under subsection (d), work affecting the interior arrangements of a resource is performed within a historic district. The person, individual, partnership, firm, corporation, organization, institution, or agency of government proposing to do that work shall file an application for a permit with the city building official. The building official shall immediately refer the application, together with all required supporting materials that make the application complete, to the commission. A permit shall not be

issued and proposed work shall not proceed until the commission has acted on the application by issuing a certificate of appropriateness or a notice to proceed as prescribed in this ordinance. Applicants shall pay the normal permit fee.

(b) An applicant aggrieved by a decision of a commission concerning a permit application may file an appeal with the state historic preservation review board of the Michigan Historical Commission within the Department of State. The appeal shall be filed within sixty (60) days after the decision is furnished to the applicant. The appellant may submit evidence or arguments in written form, which the review board shall consider at its first regularly scheduled meeting after receiving the appeal. There is no charge or fee for considering an appeal. The review board may affirm modify, or set aside a commission's decision and may order a commission to issue a certificate of appropriateness or a notice to proceed. A permit applicant aggrieved by the decision of the state historic preservation review board may appeal the decision to the county circuit court.

(c) In reviewing plans, the commission shall follow the U.S. Secretary of the Interior's standards for rehabilitation and guidelines for rehabilitating historic buildings, as set forth in 36 CFR part 67. Design review standards and guidelines that address special design characteristics of historic districts administered by the commission may be followed if they are equivalent in guidance to the secretary of interior's standards and guidelines and are established or approved by the center. The commission shall also consider all of the following:

- (1) The historic or architectural value and significance of the resource and its relationship to the historic value of the surrounding area.
- (2) The relationship of any architectural features of the resource to the rest of the resource and to the surrounding area.
- (3) The general compatibility of the design, arrangement, texture, and materials proposed to be used.
- (4) Other factors, such as aesthetic value, that the commission finds relevant.

(d) The commission shall review and act upon only exterior features of a resource and shall not review and act upon interior arrangements unless interior work will cause visible change to the exterior of the resource. The commission shall not disapprove an application due to considerations not prescribed in subsection (c).

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

(f) Work within a historic district shall be permitted through the issuance of a notice to proceed by the commission if any of the following conditions prevail and if the proposed work can be demonstrated by a finding of the commission to be necessary to substantially improve or correct any of the following conditions:

- (1) The resource constitutes a hazard to the safety of the public or to the structure's occupants.
- (2) The resource is a deterrent to a major improvement program that will be of substantial benefit to the community and the applicant proposing the work has obtained all necessary planning and zoning approvals, financing, and environmental clearances.
- (3) Retaining the resource will cause undue financial hardship to the owner when a governmental action, an act of God, or other events beyond the owner's control created the hardship, and all feasible alternatives to eliminate the financial hardship, which may include offering the resource for sale at its fair market value or moving the resource to a vacant site within the historic district, have been attempted and exhausted by the owner.
- (4) Retaining the resource is not in the interest of the majority of the community.

(g) The commission may delegate the issuance of certificates of appropriateness for specified minor classes of work to its staff, to the building official, or to another delegated authority. The commission shall provide to the delegated authority specific written standards for issuing certificates of appropriateness under this subsection. On at least a quarterly basis, the commission shall review the certificates of appropriateness, if any, issued for work by its staff, the building official, or another authority to determine whether or not the delegated responsibilities should be continued.

(h) Upon a finding by a commission that a historic resource within a historic district or a proposed historic district subject to its review and approval is threatened with demolition by neglect, the commission may do either of the following:

- (1) Require the owner of the resource to repair all conditions contributing to demolition by neglect.
- (2) If the owner does not make repairs within a reasonable time, the commission or its agents may enter the property and make such repairs as are necessary to prevent demolition by neglect. The costs of the work shall be charged to the owner, and may be levied by the city council as a special assessment against the property. The commission or its agents may enter the property for purposes of this section upon obtaining an order from the circuit court.

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

(Ord. No. 598, § 1, 9-5-00)

Sec. 8-209. Grants, gifts, and programs.

The city may accept state or federal grants for historic preservation purposes, may participate in state and federal programs that benefit historic preservation, and may accept public or private gifts for historic preservation purposes. The historic district commission is hereby appointed the agent to accept and administer grants, gifts, and program responsibilities.

(Ord. No. 598, § 1, 9-5-00)

Sec. 8-210. Historic resource; acquisition by local legislative body.

If all efforts by the commission to preserve a resource fail, or if it is determined by the city council body that public ownership is most suitable, the city council, if considered to be in the public interest, may acquire the resource using public funds, public or private gifts, grants, or proceeds from the issuance of revenue bonds.

The acquisition shall be based upon the recommendation of the commission or standing committee. The commission or entity appointed by the city council is responsible for maintaining publicly owned resources using its own funds, if not specifically designated for other purposes, or public funds committed for that use by the city council. Upon recommendation of the commission or entity appointed by the city council, the city may sell resources acquired under this section with protective easements included in the property transfer documents, if appropriate.

(Ord. No. 598, § 1, 9-5-00)

Sec. 8-211. Historic district commission; filings with delegated authority; duties of local public officials, employees, and Michigan Historical Center.

The commission shall file certificates of appropriateness, notices to proceed, and denials of applications for permits with the city building official. A permit shall not be issued until the commission has acted as prescribed by this act. If a permit application is denied, the decision shall be binding on the building official or other authority. A denial shall be accompanied with a written explanation by the commission of the reasons for denial and, if appropriate, a notice that an application may be resubmitted for commission review when suggested changes have been made. The denial shall also include notification of the applicant's rights of appeal to the state historic preservation review board and to the circuit court. The failure of the commission to act within sixty (60) calendar days after the date a complete application is filed with the commission, unless the applicant and the commission agree upon an extension in writing, shall be considered to constitute approval.

Local public officials and employees shall provide information and records to committees, commissions, and standing committees, and shall meet with those bodies upon request to assist with their activities.

(Ord. No. 598, § 1, 9-5-00)

Sec. 8-212. Construction of act.

Nothing in this act shall be construed to prevent ordinary maintenance or repair of a resource within a historic district, or to prevent work on any resource under a permit issued by the city building official or other duly delegated authority before the ordinance was enacted.

(Ord. No. 598, § 1, 9-5-00)

Sec. 8-213. Appeal of decisions.

Any citizen or duly organized historic preservation organization in the city, as well as resource property owners, jointly or severally aggrieved by a decision of the commission may appeal the decision to the circuit court, except that a permit applicant aggrieved by a decision rendered under this ordinance may not appeal to the court without first exhausting the right to appeal to the state historic preservation review board. (Ord. No. 598, § 1, 9-5-00)

Sec. 8-214. Establishing, modifying, or eliminating historic districts; study committee; considerations; review of applications within proposed historic district; emergency moratorium.

(a) The city council may at any time establish by ordinance additional historic districts, including proposed districts previously considered and rejected, may modify boundaries of an existing historic district or may eliminate an existing historic district. Before establishing, modifying, or eliminating a historic district, a historic district study committee appointed by the city council shall comply with the procedures set forth herein and shall consider any previously written committee reports pertinent to the proposed action. To conduct these activities, the city council may retain the initial committee, establish a standing committee, or establish a committee to consider only specific proposed districts and then be dissolved.

(b) If considering elimination of a historic district, a committee shall follow the procedures set forth herein for issuing a preliminary report, holding a public hearing, and issuing a final report but with the intent of showing one (1) or more of the following:

- (1) The historic district has lost those physical characteristics that enabled establishment of the district.
- (2) The historic district was not significant in the way previously defined.
- (3) The historic district was established pursuant to defective procedures.

(c) Upon receipt of substantial evidence showing the presence of historic, architectural, archeological, engineering, or cultural significance of a proposed historic district, the city council, at its discretion, may adopt a resolution requiring that all applications for permits within the proposed historic district be referred to the commission as prescribed herein. The commission shall review permit applications with the same powers that would apply if the proposed historic district was an established historic district. The review may continue in the proposed historic district for not more than one (1) year, or until such time as the city council approves or rejects the establishment of the historic district by ordinance, whichever occurs first.

(d) If the city council determines that pending work will cause irreparable harm to resources located within an established historic district or a proposed historic district the legislative body may by resolution declare an emergency moratorium of all such work for a period not to exceed six (6) months. The legislative body may extend the emergency moratorium for an additional period not to exceed six (6) months upon finding that the threat of irreparable harm to resources is still present. Any pending permit application concerning a resource subject to an emergency moratorium may be summarily denied.

(Ord. No. 598, § 1, 9-5-00)

Sec. 8-215. Violation; fine; payment of costs.

A person, individual, partnership, firm, corporation, organization, institution, or agency of government, including the historic district commission, that violates this act is responsible for a civil violation and may be fined not more than five thousand dollars (\$5,000.00).

A person, individual, partnership, firm, corporation, organization, institution, or agency of government that violates this act may be ordered by the court to pay the costs to restore or replicate a resource unlawfully constructed, added to, altered, repaired, moved, excavated, or demolished.
(Ord. No. 598, § 1, 9-5-00)

Sec. 8-216. Reserved.

Editors Note: Ord. No. 604, adopted December 4, 2000, from which former § 8-216 derived, was repealed by a vote of the electors of the city on August 14, 2001. Former § 8-216 pertained to establishment of historic districts.