

CITY OF MASON

201 West Ash St.
Mason, MI 48854-0370

City Hall 517-676-9155
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Historic District Commission Meeting – 2nd Floor Training Room Monday, March 28, 2016

7:00 p.m.

AGENDA

1. Call to Order
2. Roll Call
3. Approval of Minutes – Meeting of January 25, 2016
4. People from the Floor
5. Announcements
6. Regular Business
 - A. Discussion – Michigan Legislature House Bill 5232 & Senate Bill 720
 - B. Historic District Inventory
7. Unfinished Business
8. New Business
9. Correspondence
10. Liaison Reports
11. Administrator's Report
12. Adjournment

**CITY OF MASON
HISTORIC DISTRICT COMMISSION MEETING
MINUTES OF JANUARY 25, 2015**

Clinton called the meeting to order at 7:05 p.m. in the 2nd floor Training Room at 201 W. Ash Street, Mason, Michigan.

Commissioner(s) Present: Clinton, Jewett, Mulvany, Schulien, Shattuck, Vogel
Commissioner(s) Absent: Cummings (excused)
Also present: David E. Haywood, Zoning & Development Director
Deborah J. Cwierniewicz, City Clerk
Deborah Stuart, City Administrator

APPROVAL OF MINUTES

The Meeting Minutes of November 23, 2015 were approved as presented.

UNFINISHED BUSINESS

None.

ELECTION OF OFFICERS

Cwierniewicz opened the floor for Chairperson nominations.

Nomination by Vogel,
to elect Rita Vogel as Chairperson.

Nomination by Schulien,
to elect Becky Clinton as Chairperson.

Seeing that no other commissioners were nominated, Cwierniewicz closed nominations.

BECKY CLINTON ELECTED AS CHAIRPERSON

Cwierniewicz opened the floor for Vice-Chairperson nominations.

Nomination by Schulien,
to elect Rod Jewett as Vice-chairperson.

Nomination by Vogel,
to elect Rita Vogel as Vice-chairperson.

Seeing that no other commissioners were nominated, Cwierniewicz closed nominations.

ROD JEWETT ELECTED AS VICE-CHAIRPERSON

PEOPLE FROM THE FLOOR

None.

ANNOUNCEMENTS

Deborah Stuart, City Administrator, was introduced for the first time to the Commission. Ms. Stuart informed the Commission that the topic of historic preservation is near and dear to her heart and she looks forward to working with the Commission on important preservation issues in the future.

REGULAR BUSINESS

Food Truck Ordinance

Cwierniewicz gave a brief overview of the proposed food truck ordinance and invited comments from the Commission. A lengthy discussion ensued with the Commission identifying the following items for considerations/concerns:

- Limit/regulate tables and chairs on the sidewalk
- Require ancillary equipment (propane tanks, trash can, tables, chairs, etc.) be removed truck is gone
- Require reimbursement or fee for use of City utilities (electric, water, etc.)
- Explore option to require payment in lieu of taxes
- Consider impact of obstructing diagonal parking areas
- Disburse trucks fairly - allowing more than one in public ROW
- Balance impact of on-street parking interfering with potential business at nearby brick and mortar businesses
- Control impact on limited on-street parking in downtown area
- Set noise standards for evening hours (e.g. – generator noise concerns)
- Require cleanliness of area (example – ketchup on sidewalk, etc.)
- Limit the allowances for set-up and tear down on either end of their permitted time
- Limit the total number of permits/licenses issues to six or less
- Set weight limits on streets and/or public parking areas – concern for asphalt
- Test ordinance for one year as a pilot program
- Need resolution mentioned in ordinance that regulates operation on city-owned property
- Require adjacent property sign-off/approval/non-compete options
- Set specific locations, with a specific number allowed to operate in the city, so they are non-competing
- Address interferences with street sweeping and snow removal – should there be different hours for winter vs. summer
- Address how this will apply to parks. If not, how will they be treated?
- Providing estimates on fees would help discussion

UNFINISHED BUSINESS

The Commission discussed the status of the inventory website project. Haywood reported that the project had been left with the ad-hoc committee of Rodney Jewett and Mike Waltz. Jewett informed the Commission that he will contact Waltz to revisit this project and report back to the Commission.

NEW BUSINESS

None.

CORRESPONDENCE

The Commission discussed the member benefits of both the Michigan Historic Preservation Network and the Historical Society of Michigan.

Motion by Shattuck, second by Schulien,
To become an annual member of the Michigan Historic Preservation Network at \$150 per year and budget accordingly.

MOTION APPROVED UNANIMOUSLY

LIAISON REPORTS

Mulvany gave a brief report of the City Council business.

ADMINISTRATOR'S REPORT

Haywood gave a brief report of the Zoning & Development Department business.

ADJOURNMENT

Being there was no further business, the meeting adjourned at approximately 8:36 p.m.

Deborah J. Cwierniewicz, City Clerk

City of Mason

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www.mason.mi.us



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MEMORANDUM

TO: Historic District Commission

FROM: David E. Haywood, Zoning & Development Director 

RE: Proposed Amendments to PA 169 of 1970 – HB5232 & SB720

DATE: March 24, 2016

On January 26, 2016, legislation was introduced in the State Legislature that would radically change how historic districts function. The Michigan Historic Preservation Network has identified the key implications of the proposed legislation currently being pushed through the House and Senate as the following:

- Require a petition of local property owners and acquire a 2/3 majority in support before a historic district study committee could even be appointed.
- Mandate that after a local legislative body decides to establish a local historic district, the public in that unit of government must vote in support of the district in a general election to make it official.
- Dispose of the current process for dissolving historic districts, allowing local legislative bodies to eliminate local historic districts without guidelines or justification, and without community input.
- Require the general electorate to vote on its local historic districts every 10 years, even in communities with long-standing historic districts, imposing unnecessary and substantial costs upon municipalities.
- Reduce reliance on accepted, best-practice Standards used nationwide for commission decision-making, introducing uncertainty into the process.
- Change the appeals process for an aggrieved property owner within a district. Instead of appealing to a neutral state board, which has appellate jurisdiction because of its expertise, appeals would be heard at the local level where political and development pressures could affect the outcome.
- Make it impossible for local legislative bodies to act quickly to head off a sudden development threat to community landmarks.

Attached is a copy of SB 5232, which is identical to companion Senate Bill 720, for your review. Also attached are the MHPN position statement and advocacy alert that provides more detail on the potential impacts of the proposed bill.

Staff recommends that the HDC be prepared to discuss this issue in detail, and, if so desired, make a motion to direct staff to prepare a letter to the City's State Representative and Senator discouraging enactment of these bills.

HOUSE BILL No. 5232

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

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

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1a. As used in this act:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 historic district or added to an established historic district.

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

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

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

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

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

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

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

1 FOLLOWING:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



MICHIGAN HISTORIC PRESERVATION NETWORK

HISTORIC RESOURCES IN MICHIGAN JEOPARDIZED BY HOUSE BILL 5232

Michigan's historic places drive economic development, attract businesses, draw tourists and new residents, create a sense of place, and enhance our quality of life. Keeping these historic places is so important that historic preservation has been upheld as a public purpose under the U. S. Constitution—preserving historic resources is a valid governmental goal and local historic district ordinances have been upheld as an appropriate means to secure that goal. Local historic districts are the only way for communities to manage and protect their historic assets, and Michigan enables local historic districts through Public Act 169 of 1970. **78 communities to date have chosen to enact ordinances to protect their historic assets** at the local level, under current state law. House Bill 5232 seeks to drastically change Public Act 169, jeopardizing the efficient and fair process for establishing local historic districts already in place, reducing protection given to resources in local historic districts, and diminishing the authority of local historic district commissions and local legislative bodies.

Weakens Protection for Historic Resources & Reduces Local Control

- This bill would make it exponentially more difficult for a community to establish a local historic district by requiring a 2/3 majority consent from property owners within the boundaries of a proposed district before the district could even be studied. It would then later require that 2/3 majority of the local legislative body vote in favor of the district. Property owners currently have a voice in the process through meetings and public hearings and a local legislative body typically will not vote in a favor of a district if there is not broad community support.
- This bill would make it impossible for local legislative bodies to act quickly to head off a sudden development threat. Currently, in municipalities with a historic district ordinance, a local legislative body can place threatened resources under study for local designation and delay development or demolition in that area for up to 6 months. Requiring a petition of local property owners to obtain a 2/3 majority consent before a historic district study committee could even be appointed would eliminate the local body's ability to act quickly under threat.
- This bill would reduce reliance on accepted, best-practice Standards used nationwide for historic district commission decision-making, introducing uncertainty into the process. The Secretary of the Interior's Standards for Rehabilitation that commissions currently use across the state would be optional, jeopardizing how federal rehabilitation tax credit projects could be successfully completed and potentially impacting the ability of Certified Local Government communities to receive state grant funds.
- This bill would change the appeals process for an aggrieved property owner within a local historic district. Instead of appealing to a neutral state board, which has appellate jurisdiction because of its expertise, appeals would be heard at the local level where political and development pressures could affect the outcome. Local appeals could also be costly to a municipality.

KEY IMPLICATIONS OF HOUSE BILL 5232:

Loss of local government authority. Owner consent for establishing a local historic district places a community's ability to protect what it finds important in the hands of a few private property owners.

Loss of neutral appeals process. Currently, over 95% of applications for work that historic district commissions review are approved and fewer than eight appeals are heard per year—there was only one appeal in the past year.

Loss of reliable review standards. Allowing for optional standards that are "in the best interest of the community" is extremely vague and might have nothing to do with historic preservation.

Loss of the Certified Local Government program. Since 2003, nearly \$1.5 million in grant funds have been awarded to rehabilitation and other preservation projects in communities with local historic districts. The proposed changes to the law could jeopardize this program.



Michigan Historic Preservation Network

Advocacy Alert: Historic Resources in Jeopardy with HB 5232 / SB 720

We need your urgent attention and immediate action. On January 26th, Rep. Chris Afendoulis, R-Grand Rapids, and Sen. Peter MacGregor, R-Rockford, introduced identical legislation into the Local Government Committees of the House and Senate. House Bill 5232 and Senate Bill 720 have serious detrimental impacts to historic resources and local historic districts through proposed amendments to Michigan's Local Historic Districts Act, PA 169 of 1970.

Local Historic Districts are the ONLY way for a community to protect areas of historic significance from insensitive development, inappropriate alterations, and demolition. 78 Michigan communities have chosen to establish protective ordinances since Michigan's enabling legislation was created in 1970. Our current state law effectively protects over 20,000 historic resources within these districts. The proposed bills put these resources, and any designated in the future, at risk by crucially reducing protections and diminishing the authority of local historic district commissions and local legislative bodies.

Take Action!

Voice opposition to HB 5232 and SB 720 by contacting your local [representatives](#) and [senators](#) by phone, letter, and e-mail. Full language of the House and Senate Bills, Bill Sponsors, Current Bill Status, and the House and Senate Local Government Committee can be found here:

[House Bill 5232](#)

[House Bill Sponsors & Bill Status](#)

[House Local Government Committee](#)

[Senate Bill 720](#)

[Senate Bill Sponsors & Bill Status](#)

[Senate Local Government Committee](#)

Speak Out!

Tell your legislators why these amendments to PA 169 of 1970 critically jeopardize adequate protection for Michigan's historic resources. The full impact of these bills is far-reaching. Here are a few key ways the proposed bills will negatively impact the existing enabling legislation.

Community landmarks would be made vulnerable when a sudden development or demolition threat appears as the bills would require majority property owner consent before the resource could even be placed under study. In the case of a single resource, that would mean the sole property owner would have to be in agreement. Under current state law, the local legislative body can appoint a study committee and then, if the local legislative body chooses, they can resolve to pass a moratorium granting the area under study 6 months of inaction from development, alteration, and demolition. This process allows for consideration of a resource that may not have been previously identified, surveyed, or designated, and can help the community save an important asset. The proposed bills would eliminate this important protective measure.

Requiring a 2/3 majority support petition of property owners before a study committee could be appointed places undue burden on communities seeking to establish a local historic district and would eliminate grant funds available for preservation projects. Private property rights are not neglected in the current process for establishing a district—

community meetings about the district are part of the process from the beginning of the study period, as are public hearings where property owners in a proposed district are given ample opportunity to voice their opinions. A local body typically will not vote to approve a local historic district without strong local support. This bill would mandate that after acquiring 2/3 majority support of property owners in a proposed district, and after a local legislative body decides to establish a local historic district, the public in that unit of government must vote in support of the district in a general election to make it official. Federal funding for Michigan preservation projects through the Certified Local Government program, one of the VERY few grant programs for historic buildings, would not allow communities opting for majority consent to be eligible for these critical funds.

Dismissal of approved Standards and Guidelines, used nationwide, that historic district commissioners base their reviews upon would leave the current processes open to interpretation. The bills propose the allowance of “other Standards”, unspecified, to be considered when making important decisions about historic resources, introducing uncertainty into the process. We need agreed-upon, best-practice Standards to ensure that defensible decisions are made when communities determine which resources to protect, how they might include appropriate historic landmarks in districts, and in how a historic district commission reviews applications for work that will impact these assets well into the future.

These bills would clearly threaten the viability of local historic districts in Michigan over time by requiring a local legislative body vote to reinstate each district, even those long-standing, every 10 years. This would inflict unnecessary costs on a community in the voting process and in staff dedication to the effort. Moreover, in communities with several historic districts, the ballot process would be confusing and unwieldy for the voters. No other state laws have such a requirement and the enabling legislation for local historic districts should not be made the exception.

Not only would the bills create a sunset clause on local historic districts, they would dispose of the current process for dissolving historic districts. The proposed bill amendments would allow local legislative bodies to eliminate local historic districts simply if they chose to do so—without guidelines or justification, and without community input. And while the bills would require majority support in the form of petitioning property owners in a proposed district, and also requiring the voters in a local unit to vote in support of establishing a district, no such petition or vote would be necessary to dissolve a district. This is contradictory and makes it easy to do away with local historic districts and exceedingly difficult to establish local historic districts.

Appeals would be heard at the local level where political and development pressures could affect the outcome rather than at a neutral, state board of appeals. Appeals from aggrieved property owners are currently heard by the State Historic Preservation Review Board, whose members are appointed by the Governor of Michigan. This board offers impartial review under a body of experts using nationally recognized preservation Standards. Development interests and personal/political stances within a given community are therefore aptly distant from the board of review in their decision-making process. Local review of appeals would not ensure the use of preservation Standards in their review of cases. Furthermore, 90% of work applications that come before a historic district commission are granted approval and the number of appeals filed each year is steadily decreasing—only 1 or 2 appeals have been reviewed by the State Review Board in recent years, proof that the current system meets the needs of local communities.

Michigan Historic Preservation Network’s One-page Rebuttal is available [here](#).

A sample letter to representatives and senators for customization is available [here](#).

Stay apprised of updates on MHPN’s [website](#) and by subscribing to our [e-blasts](#). Be sure to join us for [Advocacy Day](#) in Lansing on March 23rd! Thank you for your support!