

ARTICLE I. IN GENERAL

Secs. 118-1—118-25. Reserved.

ARTICLE II. HISTORIC DISTRICTS*

DIVISION 1. GENERALLY

Sec. 118-26. 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 any excavation, new construction, reconstruction, exterior modification, removal, or addition of any exterior feature, including a change of an exposed surface material, or other work that changes the detail of a resource but does not change its basic size or shape.

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 districts commission.

Demolition means the razing or destruction, whether entirely or in part, of a resource, including but 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 resource or a group of resources that are related by history, architecture, archaeology, engineering, or culture.

*State law reference—Historic districts, MCL 399.201 et seq.

Historic preservation means the identification, protection, conservation, rehabilitation, restoration, evaluation, reconstruction, or establishment of resources that are 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, the state, or the United States.

Noncontiguous historic district means an historic district created by the city for purposes of this article which is not included in the Stony Creek and Winkler Mill Pond Districts as described in section 118-99 or 118-100 of this article.

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 subsection 118-164(d).

Open space means undeveloped land, a naturally landscaped area, or a formal or man-made landscaped area that provides a connective link or 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 the purposes of this article.

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 the study committee in accordance with the procedure set forth in division 4 of this article 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 article.

Resource means one or more publicly or privately owned historic or nonhistoric buildings, structures, or site, object, feature, or open space located within a historic district.

Site feature means a driveway, walkway, lighting, bench, fountain, well, terrace, canal system, plant or tree, berm, drainage or irrigation course or other object, improvement, or archaeological feature that is important in defining the history of the site and its overall historic character.

Structure means any abovegrade feature including any building, construction, edifice, or piece of work artificially built up or composed of parts joined together by humans in some definite manner, including sheds, fences, walls, barns, carriage houses, outbuildings, signs, porches, decks, railings, and bridges. The term "structure" shall be construed as if followed by the phrase "or part thereof."

Study committee means the city historic districts study committee.

Work means any construction, addition, alteration, repair, moving, excavation, or demolition. (Code 1976, § 4-06.02; Ord. No. 449, § 1, 10-20-1999; Ord. No. 528, § 1, 1-12-2009)

Cross reference—Definitions generally, § 1-2.
State law reference—Definitions, MCL 399.201a.

Sec. 118-27. Purpose.

Pursuant to Public Act No. 169 of 1970 (MCL 399.201 et seq.), historic preservation is declared to be a public purpose, and the purpose of this article shall be to do one or more of the following:

- (1) Safeguard the heritage of the city by preserving historic districts in the city that reflect elements of the city's history, architecture, archaeology, engineering, or culture.
- (2) Stabilize and improve property values in each district and the surrounding areas.
- (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, state and nation.

(Code 1976, § 4-06.01)

Sec. 118-28. Ordinary maintenance and repair.

Nothing in this article shall be construed to prevent ordinary or emergency maintenance or repair of a resource within a historic district. (Code 1976, § 4-06.09.04)

Sec. 118-29. Enforcement agency.

The city building department shall be charged with the enforcement of this article. Authorized representatives of the department are designated as ordinance enforcement officers for purposes of this article with the powers set forth in section 1-14 of this Code. (Code 1976, § 4-06.03)

Sec. 118-30. Violations.

(a) *Civil fine.* Any person who violates this article is responsible for a municipal civil infraction and may be fined as provided in section 66-37.

(b) *Restoration.* Any person who violates this article 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. (Code 1976, § 4-06.11)

Sec. 118-31. Authority to acquire historic property.

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

(b) *Recommendation.* Such acquisition shall be based on the written recommendation of the historic districts commission.

(c) *Sale of resources.* The city may sell resources acquired under this section with protective easements included in the property transfer documents, if appropriate. (Code 1976, § 4-06.09.01)

Sec. 118-32. Appeal from commission decisions.

(a) *Administrative appeal.* An applicant aggrieved by a decision of the historic districts commission concerning a permit application under division 5 of this article may file an appeal, in accordance with section 5(2) of Public Act No. 169 of 1970 (MCL 399.205(2), MSA 5.3407(5), (2)), with the state historic preservation review board of the state historical commission. The appeal shall be filed within 60 days after the commission's decision is furnished to the applicant.

(b) *Judicial review.* 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 historic districts commission may, in accordance with section 11 of Public Act No. 169 of 1970 (MCL 399.211, MSA 5.3407(11)), appeal the decision to the circuit court, except that a permit applicant aggrieved by a decision rendered under division 5 of this article may not appeal to the court without first exhausting the right to appeal to the state historic preservation review board.
(Code 1976, § 4-06.10)

Sec. 118-33. Duty to maintain and repair.

(a) *Prevention of deterioration.* Every resource in any historic district shall be maintained by the owner or person in control thereof so as to:

- (1) Prevent deterioration of exterior walls or vertical supports, roofs, or horizontal members, exterior chimneys, exterior plaster or mortar, any documented exterior architectural feature; and
- (2) Prevent deterioration by the weather due to inadequate weatherproofing of exterior walls, roofs, and foundations, including the necessity of replacing broken windows and doors, if the deterioration has or is likely to cause structural weakness or to otherwise affect the continuation of the resource as a historic resource.

(b) *Demolition by neglect.* Upon a finding by the historic districts 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 repair.* Require the owner of the resource to repair all conditions contributing to demolition by neglect; or
- (2) *Repair by city.* If the owner does not make repairs within a reasonable time, the city 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 as a special assessment against the property in accordance with the procedure set forth in section 90-30 of this Code. The city or its agents may enter the property for purposes of this subsection only after obtaining an order from the circuit court.

(Code 1976, § 4-06.09.02)

Sec. 118-34. Work done without permit.

(a) *Restoration by owner.* When work has been done upon a resource without a permit and the historic districts commission finds that the work does not qualify for a certificate of appropriateness, the commission may require the 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.

(b) *Court order.* If the owner does not comply with the restoration requirements within a reasonable time, the city 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.

(c) *Restoration by city.* If the owner does not comply or cannot comply with the order of the court, the city or its agents may enter the property and conduct work necessary to restore the resource to its former condition or to 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 city as a special assessment against the property.

(d) *Entry onto property.* When acting pursuant to an order of the circuit court, the city or its agents may enter a property for purposes of this section.
(Code 1976, § 4-06.09.03)

Sec. 118-35. Review of work in proposed districts.

(a) *Review of permit applications.* Under this article, permit applications shall be reviewed in accordance with the following:

- (1) *Resolution.* Upon receipt from the historic districts commission of substantial evidence showing the presence of historic, architectural, archaeological, engineering, or cultural significance of a proposed historic district, the city council may, in its discretion, adopt a resolution requiring that all applications for permits within the proposed historic district be referred to the commission as prescribed in division 5 of this article.
- (2) *Commission review.* The historic districts commission shall review permit applications with the same powers that would apply if the proposed historic district was an established historic district.
- (3) *Time limit.* The review may continue in the proposed historic district for not more than one year or until such time as the city council approves or rejects the establishment of the historic district by ordinance, whichever occurs first.

(b) *Emergency moratorium.* If the city council determines that pending work will cause irreparable harm to historic resources located within an established historic district or a proposed historic district, based on evidence presented by the historic districts commission to support the determination of the city council, the city council may by resolution declare an emergency moratorium of all such work for a period not to exceed six months. The city council may extend the emergency moratorium for one additional period not to exceed six months upon finding that the threat of irreparable harm to historic resources is still present. Any pending permit application concern-

ing a historic resource subject to an emergency moratorium shall be suspended for the duration of the moratorium
(Code 1976, §§ 4-06.08.01, 4-06.08.02)

Secs. 118-36—118-60. Reserved.

DIVISION 2. HISTORIC DISTRICTS COMMISSION*

Sec. 118-61. Created; membership.

(a) *Created.* There is created the city historic districts commission, which shall consist of nine members who reside in the city.

(b) *Tenure.* Members shall be appointed by the city council for terms of office of three years. Terms shall expire on December 31 of the year of expiration.

(c) *Reappointment.* Members of the historic districts commission shall be eligible for reappointment.

(d) *Filling vacancy.* A vacancy occurring in the membership of the historic districts commission for any cause shall be filled by a person appointed by the city council for the duration of the unexpired term. The appointment shall be made within 60 days after the vacancy occurs.

(e) *General membership requirement.* A majority of the members shall have a clearly demonstrated interest or knowledge of historic preservation.

(f) *Special membership requirements.* At least two members of the historic districts commission shall be appointed from a list of residents submitted by a duly organized and existing preservation society and at least one member of the historic districts commission shall be either an architect duly registered in the state or a graduate of an accredited school of architecture who has two years of architectural experience, if such person resides in the city and is available for appointment. To the extent available, the city council

*Cross reference—Boards and commissions, § 2-141 et seq.

State law reference—Historic district commission, MCL 399.204.

shall also appoint to the commission an archaeologist, an historian, and an architectural historian who meet the professional qualifications specified by the national park service in 35 CFR 61.

(Code 1976, § 4-06.05.01; Ord. No. 449, § 2, 10-20-1999; Ord. No. 479, § 1, 2-26-2003)

Sec. 118-62. Compensation.

The members of the historic districts commission shall be paid on a per-meeting basis at a rate set by resolution of the city council.

(Code 1976, § 4-06.05.02; Ord. No. 449, § 2, 10-20-1999)

Sec. 118-63. Officers.

(a) *Generally.* The historic districts commission shall elect from its membership a chairperson, vice-chairperson, and secretary, whose terms of office shall be fixed by the commission.

(b) *Chairperson.* The chairperson shall preside over the historic districts commission and shall have the right to vote. The chairperson shall make reports as needed to the city council, mayor, and other city boards, commissions, and departments. The chairperson shall sign certificates of appropriateness, notices to proceed, and denials.

(c) *Vice-chairperson.* The vice-chairperson shall, in case of the absence or disability of the chairperson, perform the duties of the chairperson.

(d) *Secretary.* The secretary shall:

- (1) *Keep records.* Oversee the keeping of all resolutions, proceedings, maps, archives, and actions of the historic districts commission; and
- (2) *Sign documents.* Be authorized to sign official historic districts commission communications.

(Code 1976, § 4-06.05.03; Ord. No. 449, § 2, 10-20-1999)

Sec. 118-64. Proceedings.

(a) *Quorum.* A simple majority of the current membership of the historic districts commission shall constitute a quorum for the transaction of its business.

(b) *Rules of procedure.* The historic districts commission shall adopt bylaws for the transaction of its business which shall provide for the time and place of its regular meetings.

(c) *Meetings.* Meetings shall be conducted in accordance with the following:

- (1) *Open meetings.* All meetings of the historic districts commission shall be open to the public and held in compliance with the open meetings act, Public Act No. 267 of 1976 (MCL 15.261 et seq.). Any person or his duly constituted representative shall be entitled to appear and be heard on any matter applicable to the business at hand before the historic districts commission makes its decision.
- (2) *Special meetings.* The historic districts commission shall provide for the calling of special meetings by the chairperson or by at least three members of the historic districts commission. All members of the historic districts commission shall receive written notification in advance of such special meetings.
- (3) *Notice of meetings.* Notices of all meetings, including an agenda of matters to be considered, shall be transmitted to the mayor, the city council, the city planning commission, and any existing historical societies in the city.

(d) *Votes.* The affirmative vote of a majority of the historic districts commission members present at a meeting where a quorum exists shall be required for the transaction of business, adoption of resolutions or motions, or any other action by the historic districts commission.

(e) *Records.* The historic districts commission shall make and file with the city clerk a record, which shall be open to public examination, in compliance with the Freedom of Information Act, MCL 15.231 et seq., of its resolutions, proceedings, and actions.

(f) *Annual report.* The historic districts commission shall submit an annual report of its activities to the mayor, city council, and city planning commission, and shall submit such special reports as requested by the city council.

(g) *Information and recommendations.* The city council, mayor, or other city boards, commissions, or departments may request reports, studies, documentation, and/or recommendations from the historic districts commission, which shall attempt to provide the requested material. In addition, the historic districts commission may submit any materials to such persons or entities on its own initiative. The commission may also, through the mayor, request city officials and employees to provide information and records to or to meet with the commission or any committee of the commission.

(Code 1976, § 4-06.05.04; Ord. No. 449, § 2, 10-20-1999; Ord. No. 528, § 2, 1-12-2009)

Sec. 118-65. Duties.

Except as otherwise provided, the historic districts commission shall have the duty of administering and implementing the provisions of this article. Nothing in this article shall be construed to extend the historic districts commission's jurisdiction and authority to any property which is not located within a historic district established or proposed under this article. This responsibility shall include the historic districts commission having the duty to:

- (1) *Review plans.* Review and approve or disapprove plans and applications for work on resources within historic districts, regardless of whether a building permit is required, as more fully set forth in division 5 of this article;
- (2) *Maintain roster of potential districts.* Maintain a current listing of potential historic districts and a brief statement of the significance of each; and
- (3) *Design review standards.* Follow design review standards and guidelines for resource treatment to carry out its duties under this article.

(Code 1976, § 4-06.05.05; Ord. No. 449, § 2, 10-20-1999)

Sec. 118-66. Powers.

Except as otherwise provided, the historic districts commission shall have the duty of administering and implementing the provisions of this

article. This responsibility shall include the historic districts commission having the authority to:

- (1) *Inspection.* Request through the mayor periodic inspections of all designated historic districts by appropriate city officers for violations of this article.
- (2) *Request enforcement.* Request through the mayor enforcement of this article by the appropriate city officers.
- (3) *Call in experts.* Call in experts to aid it in its deliberations, within the limits of its budget, or upon the approval of the city council.
- (4) *Seek injunctive relief.* When there is imminent danger of the loss or irreparable alteration of a historic resource protected by this article, request the city to seek such injunctive relief as it deems necessary to preserve the historic resource.
- (5) *Issue certificates, denials or notices.* Issue certificates, denials or notices as follows:
 - a. *Certificates of appropriateness.* Issue certificates of appropriateness permitting work that is determined to meet the criteria set forth in division 5 of this article;
 - b. *Denial.* Issue a written denial for work that is not appropriate and will not be permitted;
 - c. *Notice to proceed.* Issue a notice to proceed when work is not appropri-

ate but will be permitted due to financial hardship or community needs;

- d. *Determine no effect.* Determine the work does not affect the exterior features of the resource.
- (6) *Advice and guidance to property owners.* Render advice and guidance to property owners with respect to any proposed work on a historic resource located within a historic district.
- (7) *Dissemination of information to public.* Disseminate information to the public concerning those resources deemed worthy of historic preservation and encourage and advise property owners in the protection, enhancement, perpetuation, and use of historic resources.
- (8) *Advice regarding city-owned historic resources.* Advise the city regarding the use of all city-owned historic resources for the purpose of enhancing the goals of historic restoration, education, and preservation.
- (9) *Zoning variances.* Where the commission determines the granting of a requested zoning variance would, due to peculiar design or construction, aid or assist with the preservation or enhancement of the historic appearance, the commission may so advise the zoning board of appeals.
- (10) *Historic trees.* Consider and designate historic trees in accordance with division 4 of article III of chapter 126 of this Code.
- (11) *Other powers.* Have such other powers as are reasonable and necessary for the efficient administration and implementation of this article.

(Code 1976, § 4-06.05.06; Ord. No. 449, § 2, 10-20-1999)

Sec. 118-67. Gifts, grants and bequests.

(a) *Acceptance and administration.* The historic districts commission shall have the power to:

- (1) *Public and private grants and funding.* Advise the city administration regarding the use of city, state, federal, and private

grants and funding for the purpose of historic restoration, education, and preservation.

- (2) *Private gifts.* Accept in the name of the city and oversee public and private gifts, grants, or bequests for historical purposes. Upon the approval of the city council and in accordance with the donation policy established for the historic districts commission, accept, in the name of the city, grants, gifts, bequests, and donations, and advise the city administration on their use.

(b) *Administration of funds.* The city treasurer shall hold the funds as trustee of the historic districts commission for all gifts, grants, bequests, and donations, and authorized expenditures shall be certified to the city treasurer by the director of the building department in accordance with established city procedures.

- (1) *Annual budget.* As to all funds to be made available by the city council, the historic districts commission shall annually submit a budget as a city department.
- (2) *Annual report.* The commission shall annually report to the city council any money it shall receive or expend.

(c) *Title to real property.* Notwithstanding anything in this article to the contrary, the title to all real property accepted and administered by the historic districts commission shall be received and held in the name of the city.

(Code 1976, § 4-06.05.07; Ord. No. 449, § 2, 10-20-1999)

Secs. 118-68—118-95. Reserved.

DIVISION 3. DESIGNATED DISTRICTS

Sec. 118-96. Historic districts created.

Historic districts within the city are created, which districts shall include the described lands and the historic and nonhistoric resources situated thereon, as provided in this division.

(Code 1976, § 4-06.04; Ord. No. 418, § 1(4-06.04), 8-6-1997; Ord. No. 438, § 1(4-06.04), 12-16-1998)

Sec. 118-97. Recording of designation.

Within 30 days after any land has been designated or eliminated under this article as part of a historic district, the mayor shall cause a document to be recorded with the county register of deeds describing such land and indicating it has been included in or removed from a historic district pursuant to this article.

(Code 1976, § 4-06.04.04; Ord. No. 418, § 1(4-06.04.04), 8-6-1997; Ord. No. 438, § 1(4-06.04.04), 12-16-1998)

Sec. 118-98. Noncontiguous historic districts.

The following described parcels shall be noncontiguous historic districts, as illustrated on map 118-B included at the end of this article, except selected sites within the Stoney Creek and Winkler Mill Historic Districts, which is a part of this article:

<i>Ref. No.</i>	<i>District</i>	<i>Street Address</i>	<i>Sidwell Number</i>
3	NONCO	3861 Adams	15-31-301-011
4	NONCO	1100 Mead	15-01-100-001
5	NONCO	1081 E. Auburn	15-33-200-009
6	NONCO	1950 Avon Rd.	15-13-427-002
8	NONCO	1005 Dutton	15-04-227-001
9	NONCO	1481 Dutton	15-04-201-002
10	NONCO	Brewster Cemetery	15-05-326-011
12	NONCO	1207 Livernois	15-04-427-008
17	NONCO	1425 E. Auburn	15-25-382-013
21	NONCO	1160 South Blvd.	15-33-476-020
22	NONCO	1580 South Blvd.	15-33-378-031
23	NONCO	1365 W. Tienken	15-09-201-005
24	NONCO	1750 W. Tienken	15-04-351-001
26	NONCO	2498 W. Tienken	15-05-454-005
41	NONCO	1812 S. Rochester	15-22-451-014
44	NONCO	1568 W. Avon	15-16-377-037
45	NONCO	2332 W. Avon	15-17-454-017
46	NONCO	1631 W. Avon	15-21-126-002
47	NONCO	1470 W. Tienken	15-04-377-035
49	NONCO	2371 S. Livernois	15-27-151-003
50	NONCO	3610 S. Livernois	15-33-426-006
52	NONCO	861 E. Avon	15-14-477-018
53	NONCO	1841 Crooks	15-20-428-003
55	NONCO	3030 Crooks	15-32-228-037
56	NONCO	Parcel located within Rochester College	15-15-451-009
57	NONCO	1021 Harding	15-15-327-002
60	NONCO	1385 S. Adams	15-20-151-003
70	NONCO	23 Mi. & Dequindre (canal)	15-13-426-001
80	NONCO	71 N. Livernois	15-09-476-041

(Code 1976, § 4-06.06.01; Ord. No. 418, § 1(4-06.04.01), 8-6-1997; Ord. No. 438, § 1(4-06.04.01), 12-16-1998; Ord. No. 527, § 1, 12-15-2008; Ord. No. 555, § 1, 7-26-2010)

Sec. 118-99. The Stoney Creek Historic District.

The Stoney Creek Historic District shall include the following described properties and the area illustrated on map 118-A included at the end of this article, which is made a part of this article:

<i>Ref. No.</i>	<i>District</i>	<i>Street Address</i>	<i>Sidwell Number</i>
13	SC	1005 Van Hoosen	15-11-276-003
14	SC	1005 Van Hoosen	15-02-476-001
14	SC	1005 Van Hoosen	15-02-476-003
15	SC	1009 Van Hoosen	15-02-476-004
15	SC	1009 Van Hoosen	15-02-476-005
27	SC	1251 Washington	15-01-351-004
29	SC	1271 Washington	15-01-351-002
30	SC	1291 Washington	15-01-351-003
62	SC	950 & 960 E. Tienken	15-01-477-001
63	SC	972 & 978 E. Tienken	15-01-352-001
66	SC	947 E. Tienken	15-01-351-005
67	SC	1046 E. Tienken	15-01-352-005
68	SC	1050 E. Tienken	15-01-352-006
69	SC	Old Stoney Creek School	15-01-352-006
71	SC	1005 Runyon	15-01-352-018
74	SC	1081 E. Tienken	15-01-351-020
75	SC	999 E. Tienken	15-01-351-014
75	SC	999 E. Tienken	15-01-351-015
75	SC	999 E. Tienken	15-01-351-006
76	SC	947 E. Tienken	15-01-351-005
77	SC	991 Runyon	15-01-352-028

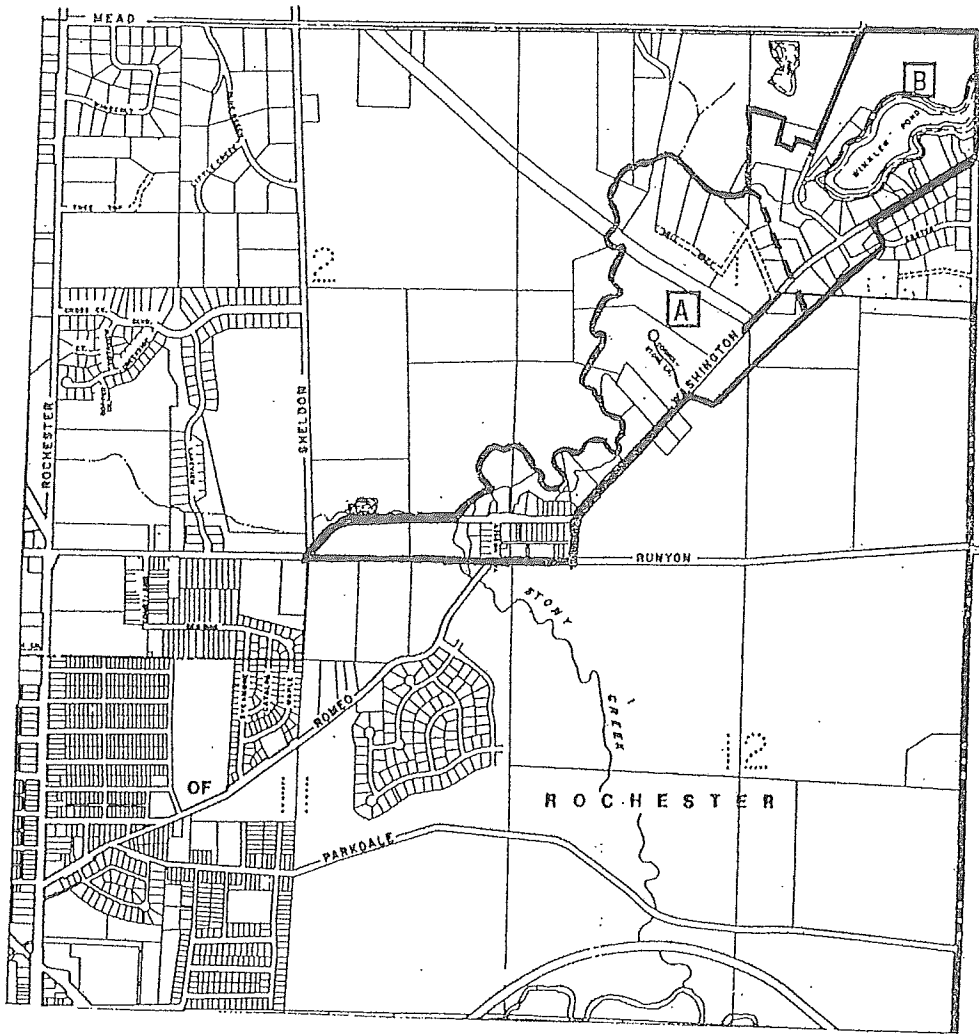
(Code 1976, § 4-06.06.01; Ord. No. 418, § 1(4-06.04.01), 8-6-1997; Ord. No. 438, § 1(4-06.04.01), 12-16-1998)

Sec. 118-100. The Winkler Mill Pond Historic District.

The Winkler Mill Pond Historic District shall include the following described properties and the area illustrated on map 118-A included at the end of this article, which is made a part of this article:

<i>Ref. No.</i>	<i>District</i>	<i>Street Address</i>	<i>Sidwell Number</i>
31	WM	1921 Washington	15-01-227-007
31	WM	1921 Washington	15-01-227-008
32	WM	1740 Washington	15-01-277-018
33	WM	6400 Winkler Mill	15-01-201-003
34	WM	6081 Winkler Mill	15-01-226-001
35	WM	6381 Winkler Mill	15-01-227-017
36	WM	6425 Winkler Mill	15-01-227-018
37	WM	6250 Winkler Mill	15-01-201-011

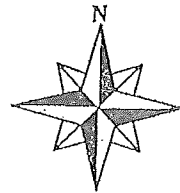
(Code 1976, § 4-06.04.02; Ord. No. 418, § 1(4-06.06.02), 8-6-1997; Ord. No. 438, § 1(4-06.04.02), 12-16-1998)



City of
ROCHESTER HILLS

Historic Districts Map
Map 118-A

- [A] Stoney Creek
Historic District
- [B] Winkler Mill Pond
Historic District



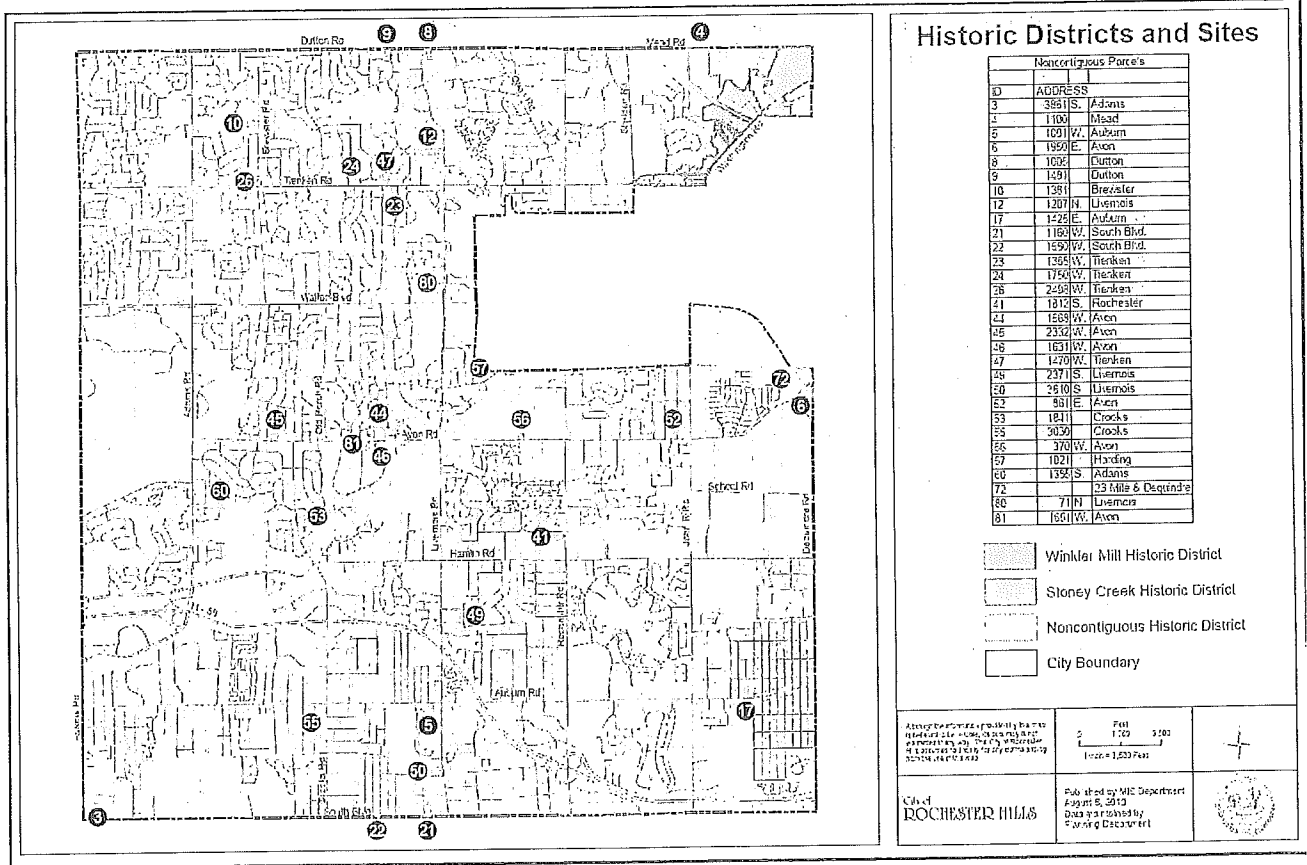
Map 118-A

(Code 1976, § 4-06.0A(app. A))

City of Rochester Hills

Non-Contiguous
Historic Districts Map

Map 118-B



(Code 1976, § 4-06.0B(app. B); Ord. No. 527, § 2, 12-15-2008; Ord. No. 555, § 2, 7-26-2010)

Secs. 118-101—118-125. Reserved.**DIVISION 4. PROCEDURE TO ESTABLISH,
MODIFY OR ELIMINATE DISTRICTS*****Sec. 118-126. Authority.**

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.

(Code 1976, § 4-06.06; Ord. No. 449, § 2, 10-20-1999)

Sec. 118-127. Initiation by commission.

The historic districts commission may initiate the modification, establishment, or elimination procedures set out in this division on its own motion and request that the study committee perform the study and reporting process set forth in this section.

(Code 1976, § 4-06.06.08; Ord. No. 449, § 2, 10-20-1999)

Sec. 118-128. Historic districts study committee.

The city council shall establish a historic districts study committee as a standing committee to conduct the duties and activities prescribed in this section on a continuing basis.

- (1) *Composition of study committee.* The study committee shall be comprised of not less than five members. The city council shall appoint at least two historic districts commission members to the study committee.
- (2) *Member qualifications.* The majority of members shall have a clearly demonstrated interest in or knowledge of historic preservation, and shall contain representation from one or more duly organized local historic preservation organizations.

*State law reference—Procedures to establish additional historic districts, modify existing boundaries of district and eliminate existing district, MCL 399.214.

- (3) *Term.* Study committee members shall be appointed for two-year terms, except the initial appointments of some members shall be for less than two years so that the initial appointments are staggered and subsequent appointments do not recur at the same time.

- (4) *Additional members.* If deemed advisable, the city council may, from time to time, appoint additional members to the study committee to consider only specific proposed districts and then be relieved.

(Ord. No. 449, § 2, 10-20-1999)

Sec. 118-129. Initial determination and investigation.

Upon receipt of a request to establish, modify or eliminate a historic district, the city council, after making a determination that there are reasonable grounds for such a request, may refer the request to the study committee to conduct an investigation in accordance with this section.

(Code 1976, § 4-06.06.01; Ord. No. 449, § 2, 10-20-1999; Ord. No. 528, § 3, 1-12-2009)

Sec. 118-130. Duties of study committee.

The study committee shall do the following:

- (1) *Photographic inventory.* Conduct a photographic inventory of resources within each proposed historic district following procedures established or approved by the bureau of history of the department of state.
- (2) *Basic research.* Conduct basic research of each proposed historic district and the historic resources located within that district.
- (3) *Determine number of resources.* 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 study committee shall be guided by the selection criteria for evaluation issued by the U.S. secretary of the interior for inclusion of resources in the National Register of Historic Places, as set forth in 36

CFR 60, and criteria established or approved by the Michigan Department of History, Arts and Libraries, if any.

- (4) *Preliminary report.* Prepare a preliminary historic districts 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 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.
 - g. The study committee's recommendation as to the establishment, modification or elimination of the historic districts.
- (5) *Transmittal of preliminary report.* Transmit copies of the preliminary report for review and recommendations to the city planning commission, to the Michigan Department of History, Arts, and Libraries, to the Michigan Historical Commission, and to the state historic preservation review board.
- (6) *Availability to public.* Make copies of the preliminary report available to the public. (Ord. No. 449, § 2, 10-20-1999; Ord. No. 528, § 3, 1-12-2009)

Sec. 118-131. Public hearing.

Not less than 60 calendar days after the transmittal of the preliminary report, the study com-

mittee shall hold a public hearing in accordance with Public Act No. 267 of 1976 (MCL 15.261 et seq.) which shall include:

- (1) *Notice to owners.* A written notice to the owners of all properties to be included in such districts by regular mail addressed to each owner as such address appears on the city tax rolls, at least 14 calendar days prior to the date of the hearing;
- (2) *Public notice and newspaper publication.* Public notice of the time, date and place of the hearing shall be given in the manner required by Public Act No. 267 of 1976 (MCL 15.261 et seq.) and shall be published at least once in a newspaper designated by the city having general circulation within the city at least 14 days prior to the date of the hearing.
(Code 1976, § 4-06.06.04; Ord. No. 449, § 2, 10-20-1999)

Sec. 118-132. Final report.

The study committee shall prepare and submit, within one year after the date of the public hearing, a final report with its recommendations and those of the planning commission to the mayor and city council. If the study committee's recommendation is to establish, modify or eliminate an historic district, the final report shall include a draft of a proposed ordinance.
(Code 1976, § 4-06.06.05; Ord. No. 449, § 2, 10-20-1999)

Sec. 118-133. City council action.

(a) *Generally.* After receiving a final report that recommends the establishment, modification or elimination of a historic district, the city council, at its discretion, may introduce and pass or reject an ordinance to establish modify or eliminate a historic district.

(b) *Record notice.* If the city adopts an ordinance establishing a historic district or altering the boundaries of an existing district, the city shall record a notice with the register of deeds as set forth in section 118-97.

(c) *Petition for historic district.* The city shall not adopt an ordinance establishing a contiguous historic district less than 60 days after a majority of the property owners within the proposed historic district, as listed on the city tax rolls, have approved the establishment of the historic district pursuant to a written petition.

(Code 1976, § 4-06.06.06; Ord. No. 449, § 2, 10-20-1999)

Sec. 118-134. Elimination of district.

If considering elimination of a historic district, the study committee shall follow the procedures set forth in this division for issuing a preliminary report, holding a public hearing and issuing a final report, but with the intent of showing one or more of the following:

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

(Code 1976, § 4-06.06.07; Ord. No. 449, § 2, 10-20-1999)

Secs. 118-135—118-160. Reserved.

DIVISION 5. CONSTRUCTION OR MODIFICATION OF RESOURCES*

Sec. 118-161. Permission required.

Before any work affecting the exterior appearance of a resource is performed within a historic district, the person proposing to do the work shall apply for and obtain permission from the historic districts commission. Permission is required regardless of whether a building permit is required. (Code 1976, § 4-06.07.01)

*State law reference—Permit, application, certificate of appropriateness or notice to proceed, fee, MCL 399.205.

Sec. 118-162. Procedure.

A person seeking to perform work on a resource within a historic district shall proceed as follows:

(1) *Information for commission.* Any such person shall provide the information in this subsection to the historic districts commission at least three weeks prior to the meeting at which the matter is to be considered. All required information shall be submitted in duplicate and shall include the person's name and address. The scale used for plans and drawings shall be indicated in the lower right corner. The following information shall be included:

- a. *Site plan.* A site plan drawn to an appropriate scale and describing, dimensioning and identifying all major features including property lines, main buildings, outbuildings, parking areas, drives, walkways, fences, major trees, significant variations in grade elevation, relationship to adjacent streets and structures, and the relationship of major features to property lines. A north point shall be indicated on the plan.
- b. *Plans and elevations for structure.* Plans drawn to scale (minimum scale of one-quarter inch equals one foot for residential and one-eighth inch equals one foot for commercial) illustrating the entire exterior perimeter of new resources, existing resources on which work is to be done, and any proposed work, together with pertinent dimensions and depiction of major exterior features including doors, windows, bays, porches, architectural trim and elevations. Details pertaining to exterior building materials shall also be provided including types, finishes and colors, kind and size of exterior wall material, and other significant architectural information. A north point shall be indicated on all plans or drawings.

c. *Other descriptive material.* The commission may consider photographs, research material or other descriptive information provided.

The commission may relax or waive any of the information submission requirements in this subsection if the commission deems such information is not necessary to the commission's deliberations.

- (2) *Application to building department.* A person requesting to do any work on a resource within a historic district shall apply to the building department and make such application by completing a building permit application accompanied by payment of any fees required in division 1 of article V of chapter 54 of this Code. The application shall be accompanied by required plans and drawings.
- (3) *Building department review.* The building department shall review the completed application to ensure the proposed work will comply with applicable setback and other planning, zoning, and environmental requirements and any other applicable ordinances.
 - a. *Approval.* If the proposed work complies with applicable setback and other planning, zoning, and environmental requirements, the building department shall approve, in writing, the application and forward a copy of the application to the historic districts commission along with all required supporting materials that make the application complete.
 - b. *Denial.* The building department shall deny or reject the application if the proposed work fails to comply with applicable setback or other planning, zoning, and environmental requirements or other applicable ordinances. The denial shall be in writing and shall detail the reason for the denial.

(Code 1976, § 4-06.07.02; Ord. No. 449, § 2, 10-20-1999)

Sec. 118-163. Limitation on building permit issuance.

A building permit shall not be issued nor shall proposed work proceed under this division until

the historic districts commission has acted by issuing a certificate of appropriateness or a notice to proceed.

(Code 1976, § 4-06.07.03)

Sec. 118-164. Review by commission.

(a) *Standards.* In reviewing plans submitted pursuant to this division, the historic districts 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 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 the Interior's Standards and Guidelines and are established or approved by the bureau of history of the department of state. 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; and
- (4) Other factors, such as aesthetic value, that the commission deems relevant to its determination under the review standards and guidelines in this subsection.

(b) *Basis for denial.* Denial of any application shall be based only on the considerations set forth in subsection (a) of this section.

(c) *Interior arrangement review limitation.* The historic districts 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.

(d) *Grounds for issuing notice to proceed.* In addition to approval of an application pursuant to the standards contained in subsection (a) of this

section, work within a historic district shall be permitted by the historic districts commission through the issuance of a notice to proceed 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 resource'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 event 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; or
 - (4) Retaining of the resource is not in the interest of the majority of the community.
- (Code 1976, § 4-06.07.04)

Sec. 118-165. Filing of application decision document.

(a) *Generally.* After due consideration pursuant to this division, the historic districts commission shall notify the applicant of its decision and shall file with the city building department its certificate of appropriateness, notice to proceed, or denial of the application submitted to it for review, which shall be signed by the chairperson or secretary of the commission. The commission shall state the reasons and grounds for its action in writing and in its minutes.

(b) *Certificate of appropriateness.* After a certificate of appropriateness or notice to proceed has been issued and the building or demolition

permit is granted to the applicant, the building department shall take such action as is necessary to require compliance with the approved building plans. The plans and specifications approved by the historic districts commission are required to be on site for inspections. The certificate of appropriateness or notice to proceed shall be effective for one year unless extended by the commission.

(c) *Denial.* A denial shall be binding upon the city building department, and no permit shall be issued in such case. The denial shall be in accordance with the following:

- (1) *Written explanation of reasons.* A denial shall be accompanied by a written explanation of 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 right of appeal to the state historic preservation review board and to the circuit court.
- (2) *Changes suggested.* If denial occurs, either before or after a denial, the commission shall endeavor to work out a feasible plan for preservation with the applicant and may give suggestions regarding changes in the application it deems desirable to the applicant. A written notice of changes required shall be provided to the applicant.
- (3) *Right of resubmission.* The applicant may make modifications to the plans and shall have the right to resubmit the application at any time after doing so.

(Code 1976, § 4-06.07.05)

Sec. 118-166. Failure to act.

The failure of the historic districts commission to render a decision within 60 calendar days after the date a complete application is filed with the commission pursuant to this division, unless an extension is agreed upon in writing by the applicant and the commission, shall be deemed to constitute approval.

(Code 1976, § 4-06.07.06)

Sec. 118-167. Plans for preserving valuable structures.

If an application for work is submitted under this division that will adversely affect the exterior appearance of a resource or for moving or demolition of a resource which the historic districts commission considers valuable to the city, state or nation and the commission determines that the alteration or loss of that resource will adversely affect the public purpose of the city, state or nation, the commission shall endeavor to establish with the owner of the resource an economically feasible plan for preservation of the resource.

(Code 1976, § 4-06.07.07)

Sec. 118-168. Demolition or moving of resources.

It shall be the public policy of the historic districts commission and the city to discourage the demolition, demolition by neglect, or moving of historic resources within a historic district. Applications to demolish a resource shall include a detailed explanation of why the resource needs to be demolished, and what will occur on the site after the demolition.

(Code 1976, § 4-06.07.08; Ord. No. 449, § 2, 10-20-1999)

Sec. 118-169. Demolition of hazardous structures.

(a) *Commencement.* If any structure within a historic district has deteriorated to the extent the building department believes the structure should be demolished, repaired, or secured under article V of chapter 18 pertaining to dangerous buildings, proceedings under such article may be commenced.

(b) *Petition for permission.* After a hearing and determination by the hearing officer that the structure should be demolished, but before ordering it demolished, the building department shall petition the historic districts commission for permission to demolish the structure.

(c) *Written notice of hearing and petition.* The property owner shall be given written notice of the petition to demolish and the hearing of the historic districts commission on the petition.

(d) *Issuance of notice to proceed.* The historic districts commission shall issue a notice to proceed with demolition of the structure if it determines that the conditions prevailing satisfy the standards contained in subsection 118-164(d). (Code 1976, § 4-06.07.09; Ord. No. 442, § 1, 7-21-1999; Ord. No. 528, § 4, 1-12-2009)

