

**PRESERVE, PROTECT, PROMOTE!**  
**A MINNESOTA GUIDE TO COMMUNITY ACTION\***  
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In today's cultural and political climate, advocating for the preservation of Minnesota's historic resources is challenging; even in the best of times it is an up-hill battle. Over the past three decades that the Preservation Alliance of Minnesota has been advocating for the preservation of the state's tangible heritage, we have learned that success in preservation advocacy relies on knowledge, communication, and action. This handbook provides grassroots preservation activists with a step-by-step guide for tackling a local preservation issue – which most commonly rears its head in a crisis situation. Because knowledge is the most powerful weapon, this handbook offers a toolbox of tips, resources, and references. We hope it will assist those “in the trenches” by providing information on the legal framework, potential partners, and systems for preventing future crises.

**1. Do your Homework**

Don't be caught with incomplete or inaccurate information.

Find out the essential information about the [property](#) in question as a basis for your advocacy:

- A. Identify the owner of the property.
- B. Answer the who, what, when, where, and why questions about the building, especially its date of construction and original use.
- C. Assess the significance of the property; determine if it has any [“official” status](#), such as National Register listing or eligibility, or local designation.
- D. If the property has “official status” become familiar with the accepted way such properties should be treated, including the [Secretary of Interior's Standards for Rehabilitation](#) and local HPC guidelines.
- E. Determine what [zoning](#) ordinances, building permits, and variances affect or are required for the proposed project.
- F. Assess the physical condition of the property and the likelihood of long-term preservation.
- G. Establish the fair market value of the property as background information.

***Reality Check***

- If the property owner is a prominent person, he or she is likely to have influence in the community and political support for the project. On the other hand, the owner may want to avoid a high-profile conflict over the project.
- If the property owner is a public entity (city, county, state, or federal agency), then certain regulatory actions may apply.

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\* This handbook was inspired by the Preservation Pennsylvania *Crisis Handbook*.

- Lack of official designation is a drawback, but not insurmountable. You may need to focus your attention on having the property designated, if that will help the cause.
- Your preservation issues may be won through mandates in a comprehensive plan or zoning ordinances unrelated to preservation; pursue this course if it works.
- Is the property a “white elephant” or beyond the point of repair? You will need to get an independent analysis, and not rely on statements made by the owner or developer. A [re-use study](#) may be a good course of action.

## 2. Identify the Threat to the Property

The type of [threat](#) indicates what additional information is needed and suggests a course of action to pursue.

- A. Proposed demolition (including the disturbance or destruction of archaeological sites)
  - a. Evaluate potential replacement development.
    - i. Will it meet current zoning?
    - ii. Is the property in question the genuinely best site?
    - iii. What investment will it generate?
  - b. Determine sources of financing for demolition and new construction.
    - i. Are public dollars involved?
    - ii. Is private financing secured?
    - iii. What is the source of private financing?
  - c. Identify any local, state and/or federal permits needed for the project.
- B. Neglect
  - a. Check with existing municipal codes to verify any non-compliance.
  - b. Review the owner’s record with other properties to identify a pattern of neglect, if appropriate.
  - c. Review the owner’s property tax record for this property. Are the taxes paid?
- C. Incompatible Use
  - a. Review existing municipal zoning ordinance to identify whether the proposed use is permitted by the code.
  - b. Evaluate the proposed project’s impact on the neighborhood in terms of traffic, parking, commercial versus residential activity, visual character, etc.

### ***Reality Check***

- Public financing may trigger regulatory statutes, which would give you a foothold into the process. Private financing and ownership will require different tactics to influence the outcome.

- Neglect can be one of the most insidious and challenging preservation threats. Check with your municipality on ways that maintenance could be addressed. Rural properties will be a greater challenge.
- New development is often seen as an economic development stimulator. The costs of development are often unseen; the economic values of rehabilitation are frequently overlooked.

### 3. Review Regulatory Framework

Determine what land use or other [regulatory procedures](#) are involved and might highlight the need to consider historic resources.

- A. Federal funding, licensing or permitting requires [Section 106](#) Review under the [National Historic Preservation Act](#).
  - a. Determine which agency is involved in the undertaking and which local agency is taking the lead.
  - b. Identify your organization as an interested public party.
  - c. Review Section 106 evaluations and recommendations under the public involvement provisions of Section 106.
  - d. If Section 106 work has not been initiated, lobby for its need with the agency and with the [State Historic Preservation Office](#) (SHPO).
- B. Inquire about the preparation of an Environmental Assessment Worksheet or Environmental Impact Statement under the [National Environmental Policy Act](#) or the [Minnesota Environmental Protection Act](#).
  - a. These documents must address archaeological, historical, and architectural resources.
  - b. Public access to these documents is required and public comment is desired.
- C. If the property is locally designated, the [Heritage Preservation Commission](#) (HPC) reviews the project.
  - a. If the project has not yet been reviewed, communicate your interest in the property and concerns about the resource.
  - b. If the project has been reviewed, examine the records of the meeting and learn how the issues were discussed.
- D. [Zoning variances](#), building permits, other municipal regulations.
  - a. Determine what type of permits have been applied for and review the applications.
  - b. The granting of a zoning variance or other local permit requires a public hearing and vote by the appropriate municipal body.
  - c. If the public hearing has not yet been held, attend and testify.
  - d. If the public hearing has been held, review the records for the event and submit written comments, if possible.
  - e. Communicate your concern to the body that will vote on the permit or variance.

***Reality Check***

- Federal and state regulations, such as Section 106 or MEPA, are great tools to assure consideration of historic resources, but they are only processes and the final outcome is anything but assured.
- State and local regulations often only apply to designated properties (on the national or state register, or designated by the HPC). These statutes assume that if there is no designation, there is no public obligation to preserve.

**4. Evaluate Your Position**

Have a realistic idea of what you are up against and who might help with the advocacy project.

- A. Evaluate the climate of opinion in your community.
  - a. Determine if there is any organizational support for preservation in general and/or the preservation of this property.
  - b. Identify any neighborhood support for preservation and/or the preservation of this property.
  - c. Assess if there is any government, community, business, or media support for preservation and/or for this property.
- B. Determine the timeframe for action.
  - a. Find out specific dates for municipal review and the permit process.
  - b. Determine the timeframe for state/federal review and granting of permits.
  - c. Determine the projected project timetable.
- C. Make sure you know the process for project approval.
- D. Identify allies.
  - a. Build support for your advocacy project.
  - b. Learn who is in support of the developer's project.
  - c. Identify each player's self interest in the property.

***Reality Check***

- Fighting a preservation battle without allies is next to impossible; without any community support, your job will be more challenging.
- Is this the time to lose the battle but win the war? Perhaps this preservation crisis will be the opportunity to plan for future preservation efforts. Maybe you will need to start an HPC for your community.

**5. Identify Goals**

Make sure you understand the range of goals that can be associated with an advocacy project.

- A. Consider these outcomes as potential goals for your advocacy issue:
  - a. Save a historic property.
  - b. Influence a design/planning decision in your community.
  - c. Increase your community's understanding of preservation issues.

- d. Gain new members or build support for your preservation organization.
  - e. Encourage updated land use planning in your community.
  - f. Encourage protective legislation at the local or state level.
- B. What can be accomplished?
- a. Relative to the specific property:
    - i. Is the goal to prevent demolition?
    - ii. Is the goal to modify plans for redevelopment?
    - iii. Is the goal to have a historic building restored?
  - b. Relative to the community:
    - i. Could the property be considered a community resource?
    - ii. Will the advocacy project generate community awareness of preservation?
    - iii. Will your efforts encourage new legislation?
  - c. Relative to your preservation organization:
    - i. Will this advocacy project increase public support?
    - ii. Will this advocacy project position the organization better for the next issue?
    - iii. Does this advocacy project have the potential for fundraising for your organization?
    - iv. Will this advocacy project raise the profile of preservation within your community?

***Reality Check***

- o This is an opportunity to look at the big picture: is there something beyond the crisis that can be accomplished?

**6. Tell Everyone**

- A. Identify key stakeholders and [allied organizations](#) that would have an interest in helping.
- B. Invoke the public involvement provisions for the relevant regulatory processes.
  - i. Let the appropriate agency know you are interested in the issue.
  - ii. Let the State Historic Preservation Office (SHPO) know you are interested in the issue.
- C. Call and write letters to [elected officials](#) of your local governments.
- D. Inform the staff members of local departments and agencies of your interest.
- E. Write a persuasive letter to the editor of the local newspaper.
- F. Issue a well-crafted press release to the media to raise awareness of your advocacy issue.
- G. Inform organizations such as the Preservation Alliance of Minnesota [www.mnpreservation.org](http://www.mnpreservation.org) or the National Trust [www.nthp.org](http://www.nthp.org) of your issue.

### ***Reality Check***

- Sometimes your message can fall on deaf ears, both at the agency level and with the public.
- If the issue can best be “handled quietly” on the sidelines, take that approach.

## **7. Explore Alternatives with the Owner/Developer**

Request a meeting with the property owner and/or developer framed as an opportunity to consider various alternatives for the property.

- A. Prepare to negotiate.
  - a. Do not assume that the other side is determined to do what you fear most.
  - b. Visualize the best and worst case scenarios.
  - c. Research the economic advantages of preservation.
    - i. Historic rehabilitation [tax credits](#)
    - ii. [Preservation easement](#) donation
    - iii. Financial involvement of government or non-profit organization
      - 1. Acquisition financing at below market rates
      - 2. Construction financing at below market rates
      - 3. [Grants](#)
    - iv. Public relations
  - d. Prepare a short (1-3 page) position statement.
  - e. Select a negotiating team and appoint its chairperson.
    - i. Keep committee small (6-8 members)
    - ii. Select members with special skills and influence, e.g., attorneys, architects, planners, developers, etc.
  - f. Recommend a neutral location for meeting.
- B. Negotiate.
  - a. Distinguish people from the problem.
    - i. Listen to the other side’s interests.
    - ii. Treat the other side’s concerns with respect.
    - iii. Avoid emotional outbursts and do not react to those of others at the table.
  - b. Establish a flexible position.
    - i. Focus on the desired goal, not your bargaining position.
    - ii. Recognize each side’s multiple interests.
    - iii. Identify shared interests.
    - iv. Avoid debate; seek dialogue.
  - c. Don’t be a victim.
    - i. Question “phony” facts.
    - ii. Be prepared to present alternative statements to counter those of biased “experts.”
    - iii. Be aware that the other side might not fully disclose its plans.

### ***Reality Check***

- If negotiation fails, consider if this is the right battle at the right time for you. Base your decision on the importance of the threatened property; the quality and impact of the proposed project; the ability of your organization to wage the battle and rebound from a loss; and how an enduring conflict would affect preservation in the long term in your community.

## **8. Prepare for Conflict**

A contentious preservation advocacy battle requires [organization](#) and good communication.

- A. Review the organization and communication skills of your [preservation group](#). Critically look at it from an outsider's perspective and improve as needed.
- B. Shape an advocacy message that is clear, concise, and compelling as it relates why your group is taking its position.
- C. Secure the support of other organizations and establish a network of allies.
- D. Estimate realistic time and money commitments expected of the organization and its volunteers.
- E. Appoint a coordinator.
- F. Select committees.
  - a. Keep committees small (6-8 members).
  - b. Select members for specific skills and influence, e.g., attorneys, architects, developers, planners, etc.

### ***Reality Check***

- Keep high standards, but don't expect miracles from your committee. Remember they are volunteers too; pace yourself to prevent burnout.
- Organizing takes time.

## **9. Plan for Victory**

Focus on knowledge and communication.

- A. [Develop a case for your cause](#).
  - a. Prepare a short (1-2 paragraph) mission statement.
  - b. Review and improve the position paper prepared in the negotiation phase.
  - c. Gather information on successful similar preservation efforts.
  - d. Prepare an [economic case](#) for preservation; consider downtown revitalization, heritage tourism, increased value of housing stock, etc.
  - e. Prepare a community case for preservation; consider retaining a sense of place, forging tangible links between the past and present, etc.
- B. Present positive, well-researched testimony.
  - a. Have the facts about:
    - i. The significance of the building
    - ii. The actual condition of the building, and how it got that way (e.g. Did the present owner fail to maintain it?)

- iii. Cost of improvements
- iv. Practical reuse alternatives
- v. Realistic funding sources
- b. Cite positive examples.
- c. Prepare hand-outs.
- d. Prepare visuals.
- e. Secure experts.
- f. Coordinate presentation.
- C. Generate [positive media coverage](#).
  - a. Identify personable spokesperson.
  - b. Prepare professional-quality visuals.
  - c. Write professional-quality press releases.
  - d. Package events to be attractive to the media.
- D. Involve the public.
  - a. Circulate a petition.
  - b. Stage events such as tours, public meetings, and vigils.
  - c. Secure endorsements from influential people.
- E. Involve politicians.
  - a. Create photo opportunities.
  - b. Stage events.
- F. Consider litigation.
- G. Keep the public and your organization informed of progress.

***Reality Check***

- o This work can't be accomplished with only two or three people. You will need a big support group with diverse interests and skills.

**10. Live with the Results.**

Always keep the long-term goal of better protection for historic resources and more informed land use planning in mind as you work on a preservation advocacy issue. Be prepared to lose the battle but win the war if the loss of one building results in the protection of many others.

***Reality Check***

- o It takes energy to move on after a crisis. Keep in mind that the momentum from the work you've done will help to create protections that should prevent the next crisis.

**11. Prevent the Next Crisis**

- A. Use the [momentum of the crisis](#) to continue the preservation dialogue in your community.
- B. Establish a [local preservation non-profit group](#) so preservationists are easily organized around the next issue.
- C. Start a [Heritage Preservation Commission](#) to designate and protect historic resources.

- D. Develop a [Main Street](#) program for your downtown.
- E. Work on the statewide or national level to create preservation-friendly policies and laws.
- F. Get involved with broader advocacy groups, such as the Preservation Alliance of Minnesota and the National Trust.

***Reality Check***

- o Creating good, sustainable historic preservation practices is an on-going process.

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## GETTING STARTED

### HOW DO I GET STARTED WITH A PRESERVATION ADVOCACY ISSUE?

If an historic building in your area is threatened with demolition, one of the first things to do is to determine if the property has an “official” status. It might be designated as a local landmark, listed in the National Register of Historic Places (National Register), or be included in a local or National Register historic district. These different “official” categories offer various types of protection under historic preservation laws and ordinances and knowledge of this status is a critical first step. A building does not have to be a designated landmark to be considered worth saving. However, it may be easier to build the case for saving it if it is already designated.

Contact your local preservation organization, historical society, or heritage preservation commission for a list of locally designated landmarks in your community. The local planning or building department in your town’s city hall might also have this information. The Minnesota State Historic Preservation Office maintains an inventory of the state’s historical properties, both those listed on the National Register and not.

### WHAT ARE SOME IMPORTANT NEXT STEPS?

Get involved in preservation in your community. The most effective way to preserve historic properties is to take a proactive approach. Join your local preservation organization, support its work, and voice your interests. Local organizations often rely on volunteer help to survey, designate, and protect important buildings and neighborhoods. See a list of local history and preservation organizations to locate one for your area <http://www.mnhs.org/preserve/mho/chsclo.html>.

Evaluate the adequacy of the local preservation infrastructure and take steps to improve it. See a list of communities with Heritage Preservation Commissions <http://www.mnhs.org/preserve/mho/heritage.html>. Pro-active organization and promotion of historic preservation as an effective land use planning tool will be more effective than stressful confrontations about a specific property. A preservation infrastructure often includes both an official, government-based component—usually a Heritage Preservation Commission—and a local non-profit community organization that can advocate for historic preservation. This community group could be a well-defined component of an existing local historical society or be an independent entity, depending on the size of the community and scope of its organizations.

Assess the need for a Local Preservation Organization. The following conditions suggest that there is a need for a local group:

- Your community has historic and cultural resources that establish a sense of place and deserved to be preserved.

- Preservation issues are not being addressed adequately by local governments and existing organizations.
- A crisis situation has sparked public concern.
- A local project, such as a downtown revitalization campaign, could prompt interest in local buildings and what can be done with them.

## KNOW THE BASICS

### WHAT ARE HISTORIC RESOURCES?

In defining historic resources for the National Register of Historic Places, the National Park Service includes those buildings, structures, objects, sites, districts, or cultural landscapes that are associated with significant events or people in the history of the United States; have significant and distinctive or distinguishable architectural characteristics; or can answer questions important to our understanding of history or prehistory. Properties that are known to meet these conditions are those that are either listed on or, through study, have been determined eligible for listing on the National Register. It is important to note, however, that most properties in the country have not been evaluated for their National Register eligibility; therefore, just because a property is not listed on, or has not been determined eligible for listing on, the National Register does not necessarily mean that it is not eligible.

While only properties listed on or eligible for listing on the National Register are federally recognized as historic resources, other resources are recognized as historically important by communities as emblems of their unique heritage. For instance, the former Northern Pacific Railway Depot, which is now the Taylors Falls Memorial Community Center, is not listed on the National Register but has been designated by the City of Taylors Falls as a Heritage Preservation Site. The bottom line is that resources can be historically important for many different reasons to many different people.

Whether a historic resource is important at the national or community level, the National Park Service categories of historic properties are still useful terms for communicating about a resource and are, therefore, provided below.

#### ***Buildings***

Buildings are probably the most familiar resource types as they include those properties “created principally to shelter any form of human activity.” Houses, churches, town halls, social halls, office buildings, commercial buildings, forts, mill buildings, barns, and fire stations are all examples of buildings.

#### ***Structures***

Structures are those resources constructed with a primary purpose other than sheltering human activity. Bridges, railroad grades, tunnels, grain elevators, fences, roads, dams, and earthworks are all examples of structures.

### ***Objects***

Objects are those resources constructed to be “primarily artistic in nature” or resources “that are relatively small in scale and simply constructed.” Objects that are the subject of preservation efforts (as opposed to curation efforts, in which they can be moved to a museum or similar institution and preserved there) generally focus on keeping them protected within an associated location, setting, or environment. A fountain that was installed as part of a designed park, a commemorative monument at the site of an event, and battlefield markers are all examples of objects.

### ***Sites***

Sites are locations that possess “historic, cultural, or archaeological value regardless of the value of any existing structure.” Prehistoric and historical archaeological sites, battlefields, rock shelters, shipwrecks, ghost towns, and natural features, such as a rock formation or a spring with cultural significance are all examples of sites.

### ***Districts***

Districts are concentrations, linkages, or continuities of any or all of the property types listed above “united historically or aesthetically by plan or physical development.” Historic main streets, residential neighborhoods, college campuses, industrial complexes, and rural villages are all examples of districts.

### ***Cultural Landscapes***

Cultural landscapes constitute a more complex resource type because they may include any of the above categories, as well as natural resources that are not typically viewed as cultural resources. A cultural landscape is defined as a “geographic area (including both cultural and natural resources and the wildlife or domestic animals therein), associated with a historic event, activity, or person or exhibiting other cultural or aesthetic values.” Cultural landscapes can be consciously designed landscapes, such as a planned suburban subdivision that includes residences, parks, trees, and roadways; landscapes that “evolved through use by the people whose activities or occupancy shaped” them, such as a farm complex; historic sites, such as a battlefield; or what is called an ethnographic landscape: “a landscape containing a variety of natural and cultural resources that associated people define as heritage resources,” such as a sacred religious site.

## **HOW DO I KNOW WHEN A HISTORIC RESOURCE IS ENDANGERED?**

Most people recognize the demolition of a historic building as the endangerment of a historic resource. Historic resources, however, are threatened in many different forms. Archaeological sites, for example, are endangered when people dig for and take artifacts

without an associated professional study designed to learn about the former occupants of the site. Even without the removal of artifacts, residential, commercial, recreational, and other types of development can destroy archaeological sites if the development involves excavation or other types of ground-disturbing activity.

Historic resources can be endangered without being physically impacted. An object that is moved from the location associated with its historical significance can be considered as endangered. If, for example, a fountain was constructed at a prison as part of the Prison Reform movement, but was removed from the prison grounds and placed in a park, it would no longer convey its historical meaning. A historic site, landscape, or structure can be endangered if its surroundings are subject to development. If, for example, suburban homes or high-rise apartments were to be constructed within the previously open and natural viewshed of the surviving portion of a late 1800s historic trail to the western United States, that trail could be considered an endangered resource because the development would alter the setting and feeling experienced by those traveling to the “frontier.”

If a historic resource or any of the surrounding elements that lend it significance are to be physically impacted in a manner that will compromise, harm, or destroy that resource, those elements, or their integrity, the resource can be considered as endangered.

## THE REGULATORY WORLD

### WHAT ARE THE LAWS THAT PROTECT HISTORIC RESOURCES?

First, understand the difference between local, state, and national roles in historic preservation. A local heritage preservation ordinance is the seat of regulatory power and the real protective power of historic preservation lies at the local level where property owners deal directly with municipal officials (see below). Properties listed on or determined eligible for listing on the National Register have some protection from federally funded and permitted undertakings. The National Park service, as the federal government's lead agency in historic preservation, is part of the national preservation infrastructure and an important source of information, but it does not have any direct role in local historic preservation issues. The State Historic Preservation Office, in Minnesota a part of the Minnesota Historical Society, is also a source of information, implements the federal program at the state level, and distributes a small amount of grant money.

A number of statutes have been passed at the national, state, and local levels that are designed to preserve historic resources under certain circumstances. The resource you are trying to save *may* benefit from the protection of one or more of these acts. It is important, therefore, to be familiar with the issues surrounding the historic resource itself as well as the various pieces of legislation and how to utilize them.

### NATIONAL LEVEL

#### *National Historic Preservation Act of 1966*

The National Historic Preservation Act of 1966 is the single most important piece of legislation related to historic preservation. Amended in 1970 and 1980, this federal law established the National Register of Historic Places to include districts, sites, buildings, structures, objects, and landscapes significant in American history, architecture, archaeology, and culture. These resources may bear significance at the national, state, or local level. Two important sections of this act provide limited protection for historic places where federal activity is involved.

#### *Section 106*

Section 106 of the National Historic Preservation Act requires Federal agencies to take into account the effects of their undertakings on historic properties. This means that projects that are funded, permitted or licensed by any Federal agency must consider the effects of the undertaking to historic properties. The process moves through the identification of an undertaking with federal permits or funds, the identification of historic properties that could be affected by the project, the assessment of effects, and the mitigation or resolution of adverse effects, if any.

Public involvement is a key component to each one of those steps. Both the Federal agency and the State Historic Preservation Office should be notified of any public interest in an undertaking. Examples of projects in which Section 106 comes into play are state or federal transportation projects where any amount of federal funding is utilized; energy projects that require federal permits; communications projects that require a license from the Federal Communications Commission; and historic property redevelopment projects if they utilize federal funds such as Community Development Block Grants.

### *Section 110*

Section 110 of the National Historic Preservation Act directs the heads of all federal agencies to assume responsibility for the preservation of National Register-listed or –eligible properties owned or controlled by their agency. Federal agencies are directed to locate, inventory, and nominate properties to the National Register, to exercise caution to protect such properties, and to use such properties to the maximum extent feasible. Other major provisions of Section 110 include documentation of properties adversely affected by federal undertakings, the establishment of trained federal preservation officers in each agency, and the inclusion of the costs of preservation activities as eligible agency project costs.

### *Archaeological Resources Protection Act of 1979*

The purpose of this statute, amended in 1988, is to protect archaeological resources on federal and Indian lands. It applies to all lands to which the fee title is held by the United States (other than lands on the Outer Continental Shelf and lands which are under the jurisdiction of the Smithsonian Institution), and to Indian lands which are held in trust by the United States.

The Archaeological Resources Protection Act established a permitting system for the excavation or removal of any archaeological resources from federal or Indian lands and for any activities associated with such excavation or removal. It also established a penalty system for un-permitted excavation or destruction of archaeological resources and the illegal sale, purchase, exchange, transport, receipt, or offer of sale of archaeological resources. Further, it prohibits the disclosure of information concerning the nature and location of any archaeological resources on federal or Indian lands unless it is determined that such disclosure would further the purposes of the act and not create a risk of harm to the resources or to the site at which such resources are located.

### *Native American Graves Protection and Repatriation Act (NAGPRA)*

NAGPRA became law in 1990, and it contains two sets of provisions. The first set requires federal agencies and museums, universities, state agencies, and local agencies receiving federal funds to inventory collections of human remains, associated funerary

objects, sacred object, and objects of cultural patrimony. Requests for repatriation of those remains or objects may be made by federally recognized Indian tribes which are culturally affiliated or for which they are lineal descendants.

The second set relates to intentional excavations and inadvertent discoveries. If prior to an undertaking, a federal land manager is reasonably sure that human remains or the cultural items mentioned above will be encountered, consultation must afford interested, federally recognized tribes input in the planning of an excavation and in determining the treatment, disposition, and custody of human remains and such cultural items if they are encountered during excavation. Similarly, if human remains or such cultural items are discovered inadvertently, consultation regarding continued excavation and the treatment, disposition, and custody of those cultural resources must occur *prior to the continuance of excavations*. In the case of either intentional excavation or inadvertent discovery, tribal government representatives and traditional religious leaders must be consulted to establish the cultural affiliation of the discovered remains or items, and they must have input on the treatment of the site area in which a discovery is made.

NAGPRA also establishes civil and criminal penalties for illegally trafficking in Native American cultural items.

#### *Executive Order 13007*

Executive Order 13007 provides protection to Native American sacred sites on federally managed lands, and it affords Native American religious practitioners access to and ceremonial use of such sites. Under this order, notification of and consultation with affiliated tribes is required concerning “proposed actions or land management policies that may restrict future access to or ceremonial use of, or adversely affect the physical integrity of, sacred sites.”

#### *National Environmental Policy Act of 1969 (NEPA)*

This federal law requires federal agencies to consider the effects of proposed federal actions on natural- and human-created environments prior to initiating an undertaking. This act also requires federal agencies to consider alternatives to the proposed action, and promotes the disclosure of information collected during the NEPA review process and of any environmental considerations to the public and other federal, state, and local agencies.

The most intensive level of NEPA review involves the completion of an Environmental Impact Statement (EIS). The purpose of an EIS is to provide a complete discussion of the significant impacts of a proposed action and to inform decision-makers and the public of all reasonable alternatives that could avoid or minimize adverse impacts or enhance the quality of the human environment.

*Department of Transportation Act of 1966*

The National Trust for Historic Preservation calls Section 4(f) of this act “one of our strongest federal historic preservation laws.” This section prohibits federal approval or funding of any transportation project, including Federal Highway Administration, Federal Aviation Administration, and Coast Guard projects that will take land from, directly affect, or indirectly affect so as to “substantially impair” any historic site, public park, recreation area, or wildlife refuge unless there is “no feasible and prudent alternative” and the project includes “all possible planning to minimize harm to the land” resulting from the project.

Examples of projects that might fall under this jurisdiction include airport expansion, bridge replacement, and highway construction or reconstruction.

*Surface Transportation and Uniform Relocation Assistance Act of 1987*

This act is important to the preservation of historic bridges, whether or not they will continue to be used for motor vehicle traffic. Section 123(f) of this act finds the reuse, rehabilitation, and preservation of historic bridges to be in our national interest. To this end, 23 U.S.C.144 requires that before federal funding can be approved for a state to demolish a historic bridge, the bridge must be made available by donation to a “State, locality, or responsible private entity” so long as it agrees to “maintain the bridge and the features that give it historic significance” and to “assume all future legal and financial responsibility for the bridge.” Further, it establishes that the funds that would have been available for the demolition of the bridge must be made available for the preservation of the bridge, though “not to exceed the cost of demolition.” Under this act, the bridge is only considered historic if it is listed on, or eligible for listing on, the National Register of Historic Places.

*Abandoned Shipwreck Act of 1987*

This act provides the United States with ownership of historic shipwrecks, including vessels, wrecks, cargo, or other contents, in or on the public lands of the United States and transfers ownership of the same to states of all historic shipwrecks within state waters or on state lands. Similarly, it transfers ownership of historic shipwrecks in or on Indian land to the tribe that owns that land. This act helps to preserve historic shipwrecks as recreational and educational opportunities to sport divers and other interested groups, and as irreplaceable State resources for tourism, biological sanctuaries, and historical research, just as it protects these resources from looters and treasure hunters.

## STATE LEVEL

### *Minnesota Historic Sites Act*

The Minnesota Historic Sites Act establishes a State Register of Historic Places, and it outlines a consultation process for projects that will affect historic sites. This act defines historic sites as “significant state resources that the Minnesota Historical Society is preserving, developing, interpreting, and maintaining for public use, benefit, and access during open hours” or listed on the National Register. When an undertaking that requires funding or licensing by any political subdivision affects historic sites, the agency must consult with the Minnesota Historical Society/SHPO to avoid or mitigate adverse effects.

### *Minnesota Field Archaeology Act of 1963*

The Minnesota Field Archaeology Act establishes the Office of the State Archaeologist and the associated duties of the State Archaeologist, including, but not limited to, the coordination of archaeological research conducted in the state, the protection and preservation of archaeological resources, and the licensing of qualified persons to conduct archaeological fieldwork. In addition, it reserves for the state the “exclusive right and privilege of field archaeology on state sites,” and it establishes the state as the owner of archaeological resources recovered during fieldwork, with the potential exception of resources recovered on behalf of nonresident schools and scientific institutions (subject to NAGPRA).

The act requires state agencies to submit development plans to the Office of the State Archaeologist, the Minnesota Historical Society, and the Minnesota Indian Affairs Council for review when there are known or suspected sites in a given area, and it sets out a system of penalties for violations of the act.

### *Minnesota Private Cemeteries Act*

In Minnesota, all human graves are afforded the same legal protection as platted cemeteries, regardless of land ownership, under the Minnesota Private Cemeteries Act. This law applies to Indian lands held in fee title, but not to reservation or trust lands, and it covers only those burials that are 50 years in age or older.

Under this law, if a burial site is found outside of a previously identified cemetery, it must be authenticated by the State Archaeologist. If the burial site is determined to have a Native American affiliation, the State Archaeologist and the Minnesota Indian Affairs Council must attempt to identify the tribal identity of the burial(s) and the Office of the State Archaeologist must work in concert with representatives of Minnesota’s tribal communities to ensure the integrity of the site. No authenticated Indian burial may be relocated without approval of the Minnesota Indian Affairs Council.

When Indian burials are known or suspected to exist on public lands, the political subdivision controlling the land must submit development plans to the State Archaeologist and the Minnesota Indian Affairs Council for review prior to advertising bids. This act makes it a crime to intentionally disturb, destroy, or remove human skeletal remains, burials, grave markers, protective objects or structures, grave ornaments, grave good, or any artifacts within the limits of a cemetery or burial ground.

#### *Minnesota Environmental Protection Act (MEPA)*

Like its national counterpart, the Minnesota Environmental Protection Act (MEPA) is designed for the protection of environmental resources, which includes historic properties. This statute requires the preparation of an Environmental Assessment Worksheet (EAW) when an undertaking with any level of government funding, licensing or permitting results in total or partial demolition or moving of a property that is listed on the National Register of Historic Places or the State Register of Historic Places.

Under MEPA, the EAW is a brief description of the basic facts involved in a proposed action and is used to determine if an EIS is required. In regards to the EIS, the act states, “Where there is potential for significant environmental effects resulting from any major governmental action, the action shall be preceded by a detailed environmental impact statement prepared by the responsible governmental unit.” Like NEPA, the purpose of the EIS is to describe the proposed action, analyze its significant environmental impacts, discuss appropriate alternatives to the proposed action and their impacts, and to explore methods by which adverse environmental impacts of an action could be mitigated. The act also specifically protects cultural resources as stated in chapter 116D.02 (d).

#### *Minnesota Environmental Rights Act (MERA)*

The Minnesota Environmental Rights Act (MERA) (Minnesota Statute 116B) was enacted to give the right to “the protection, preservation, and enhancement of air, water, land, and other natural resources” in Minnesota to each person and gives them the right to protect these resources from pollution, impairment, or destruction. Within the definition of “natural resources,” the statute also includes historic resources. The statute was successfully used to rescue the Minneapolis Armory from demolition in 1993.

### **LOCAL LEVEL**

Local communities can regulate and protect historic properties in Minnesota through Heritage Preservation ordinances. These ordinances can be adopted at the city or county level of government. The National Historic Preservation Act of 1966 encouraged local governments to establish local historic preservation ordinances and historic district commissions to monitor them. In this way, each community decides for itself which properties are historically significant and valuable to the community, as well as what steps should be taken for their protection. Often, local ordinances are the most powerful

way of regulating historic buildings. If your community has such an ordinance, become familiar with its provisions. If your community does not have a heritage preservation ordinance, you may want to explore the possibility for this type of land use regulation.

### **CAN ENVIRONMENTAL REGULATIONS WORK FOR PRESERVATION?**

In many instances, laws and regulations that are in place to control the effects to historic properties are unavailable. Local restrictions only apply when a local government has chosen to adopt such ordinances and have designated properties as historic landmarks. Federal protections, such as “Section 106” only take effect when the action is a result of federal funding, licensing or permitting. Many activities undertaken by private, state or local governments may go unchecked where historic resources are concerned. In some cases, however, state and federal environmental laws and review processes may come to the aid of historic, in addition to natural, resources.

### **HOW DOES NEPA WORK?**

Although mostly considered to be a process to protect the natural environment, the National Environmental Policy Act (NEPA) can also be a powerful tool for considering the impact of federal actions on cultural resources – including historic buildings, historic districts, archaeological sites, Native American traditional places, and traditional ways of life. While the policy does not inherently call for the protection of these important resources, it assures decisions are made with full awareness of the environmental impacts. It also provides for public input throughout the process to allow for the greatest level of transparency.

NEPA applies to all actions carried out, assisted, or licensed by the Federal government. There are three levels of NEPA analysis that are typically applied to each undertaking – a *Categorical Exclusion*, an *Environmental Assessment*, and an *Environmental Impact Statement*.

*Categorical Exclusion* (CatEx) means a category of actions which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by a Federal agency in implementation of these regulations (Sec. 1507.3) and for which, therefore, neither an environmental assessment nor an environmental impact statement is required. In some instances, a screening study will be completed to determine if a project meets the categorical exclusion. If the actions meet the CatEx criteria, neither an EA nor an EIS would be required.

An *Environmental Assessment* (EA) is done to determine whether an action is a “major federal action significantly affecting the quality of the human environment.” The content of an EA may vary, but it contains a substantial definition of what it means to have a “significant” impact. It can be, and often is, the context in which other authorities, such as Section 106, are addressed. The EA leads either to the decision to do an EIS, or to a

Finding of No Significant Impact (FONSI). The FONSI is published for public review and comment.

An *Environmental Impact Statement* (EIS) is done to analyze and document the impacts of a “major federal action significantly affecting the quality of the human environment” (NEPA Sec. 102(C)). There are several opportunities for public comment during the EIS process. The earliest opportunity is when the agency publishes a “notice of intent” (NOI) in the Federal Register. The public may also participate in the EIS “scoping” process – the process by which the analytic work of the EIS will be decided. Comments from the public are also received when a draft document (DEIS) is presented. The input provided from the comments may result in further analysis, requiring a Supplemental DEIS, or in a Final EIS (FEIS). The FEIS is the document considered when the agency makes its decision about whether and how to proceed with the action.

When reviewing any environmental documents as an interested public party concerned about effects to historic resources, be sure to look closely at the document and ask the following questions:

**Are cultural resources defined too narrowly?** Be sure that historic and cultural resources, especially those you are concerned about, are adequately addressed and defined in the environmental document.

**Is there evidence of professional bias?** Generally, archaeologists focus only on archaeological resources and architectural historians address architectural and historical resources. Ideally both types of professionals worked on the project. If not, determine if certain types of resources have been overlooked. Be alert for evidence of professional bias, and be prepared to comment on it.

**How have cultural resource requirements beyond NEPA been addressed?** Is it likely that resources that are the subjects of specific cultural resource laws, such as Section 106 review, may be subject to effects? If so, how are these requirements addressed in the EA.

**Is a sufficient range of reasonable alternatives addressed?** Is the range of alternatives considered in the EIS wide enough to embrace reasonable ways that impacts on cultural resources could be avoided or reduced? In thinking about alternatives, be sure you understand the purpose of, and need for, the action that’s proposed. Would the alternative of taking no action be a reasonable one to consider?

**Are impacts adequately described and balanced?** Have impacts that you think will occur not been identified in the EIS? Your comments should explain what these impacts are likely to be, why you think they will happen, and what you think the agency should do to get the information necessary to analyze them.

**Has there been adequate consultation?** Have concerned stakeholders and relevant review agencies been adequately contacted and consulted? Consider the obvious as well as the less apparent stakeholders.

**If impacts will occur, is there a firm commitment to adequate mitigation?** Mitigation can be proposed to alleviate the effects on historic properties by an action. Examples of mitigation include planting vegetation to screen the view of offending buildings, erecting interpretive signage about the lost or altered resource, or donating an easement on the façade of a historic building. Look carefully at the mitigation measures recommended in the document to be sure that they are adequate. If they are not, clearly state your reasons why you believe so. Mitigation can be proposed by the public and can be used to create a win-win situation.

**Does the EIS lead to a Record of Decision (ROD) based on deferred Section 106 review?** Does the EIS say that whatever impacts may occur on historic properties will be taken care of in subsequent Section 106 review, and leave it at that? This means that for all practical purposes, impacts on historic properties aren't even considered in deciding on the environmentally preferable alternative, or in making a decision about which alternative to select.

**Be as dispassionate and objective as possible.** It's all right – and usually desirable – to express your outrage about the project if that's what you feel, but don't let it run away with you. Try to be objective, try to seem reasonable, express understanding for the agency's position, and try wherever you can to relate your comments to specific requirements of the NEPA regulations and other legal authorities.

For more information on application of NEPA for the protection of historic and cultural resources, go to <http://www.npi.org/nepa/index.html>.

(Source: *The National Environmental Policy Act [NEPA] for Historic Preservationists and Cultural Resource Managers*. <http://www.npi.org/nepa/index.html>)

## **HOW DO I ENGAGE IN ENVIRONMENTAL PROTECTION LAWS?**

There are a number of things you will need to do to make sure that all historic resources are considered under the various environmental rights laws.

1. Do your research! Find out who is funding, licensing and/or permitting a project. The answer may provide you with right “hook” to enact federal or state environmental laws.
2. Be sure of your facts before you proceed.
3. Inquire with the appropriate local, state or federal government agency about the need for environmental review under the applicable legislation.
4. Remind the agency that historical and cultural resources need to be taken into consideration.

5. Request that you, or your organization or your committee, be considered an interested party in the project so you are allowed the opportunity for public comment at all stages.
6. Sharpen your critical thinking skills! Develop intelligent and informed questions in response to the environmental documents.
7. Copy all of your correspondence to the appropriate governmental units and agencies, the Minnesota State Historic Preservation Office, and to local politicians. Awareness of public interest and concern about a project will result in greater attention from all government officials. Let them know you are watching!

### **WHAT DOES A HERITAGE PRESERVATION ORDINANCE DO?**

- It provides a municipal policy for the protection of historic properties.
- It establishes an objective and public process for designating historical properties.
- It protects the integrity of designated historic properties with a design review requirement.
- It authorizes design guidelines for new development within historic districts to ensure that it does not adversely affect the area's historic character.
- It helps a community stabilize declining neighborhoods and protects and enhances property values.

### **HOW DOES A HERITAGE PRESERVATION COMMISSION WORK?**

**Function** The overall function of a HPC is to act on police powers considered for the public good by proposing designations and advising on the regulation of those properties.

**Goal** The goal of a HPC should be to help preserve historic properties in a community and participate in planning for thoughtful changes made to those properties. A HPC cannot and should not attempt to stop change and development in a community.

**Legal Basis** Each state has the legal right to regulate property to protect the public's welfare. The exertion of this regulation in the form of zoning, pollution controls, and historic preservation designation and regulation takes place at the municipal level. A HPC exercises its powers granted in an ordinance while acknowledging the due process and equal protection rights granted by constitutional amendments. Courts have ruled that the regulatory function of HPCs or City Councils does not normally constitute an unconstitutional taking of private property when a public purpose is served and the owner retains a viable use for a property.

**Membership** A HPC usually has 7 members appointed by the mayor and includes an architect, historian, real estate professional, and interested citizens. Since few HPCs have extensive staff support, members of many commissions volunteer considerably more hours than attendance at a monthly meeting in order for the work of the commission to be accomplished.

## **WHAT ARE THE MAIN DUTIES OF THE HPC?**

### ***Designation***

Designation is the act of identifying historic sites and districts that a community wishes to preserve. A broad range of criteria is used to identify properties worthy of designation. These criteria acknowledge the importance of both broad patterns of history and specific historical events. They note aspects of the community's heritage and cultural life. Buildings with distinctive or common architecture can be designated; some buildings document a period of development in the town, while others represent the work of important designers, craftsmen, or builders. Properties of these types establish a sense of place and have meaning for community residents.

The process of designation proceeds through several steps that usually include the following. The HPC identifies properties that meet the criteria for designation. It contacts the owners about the proposed designation, gathers information on the property, and prepares a designation form that documents the history of the property and states its significance. The HPC holds a public hearing on the proposed designation and forwards properties to the City Council with recommendations for designation. The City Council votes on each site and district recommended for designation.

### ***Regulation***

The regulation of designated properties is a form of consultation and approval that results in the issuance of a finding, commonly known as a Certificate of Appropriateness or Site Alteration Permit. A HPC reviews an application, discusses the project with the applicant, compares the proposed work with standards it has developed for the community, and states its findings. The commission then forwards a recommendation to the City Council, or in some cases issues the Certificate of Appropriateness or Site Alteration Permit itself. The intent of this regulation is to work together to make desired changes to properties while retaining their character-defining features.

The types of changes that are generally reviewed include:

- construction of an addition, new building, or accessory structure;
- application of exterior materials of a different kind, type, or texture than in use;
- alteration of a roof line;
- work that impacts architectural details, such as barge boards, porch elements, and shutters;
- alteration or addition of signs;
- work that alters a building's architectural style; and
- demolition in whole or in part.

Some HPCs also regulate paint color.

Some HPCs help enforce a demolition-by-neglect ordinance.

## **HOW DO I START AN HPC?**

Members of a community that does not have a Heritage Preservation Ordinance and Commission can initiate the process. A task force can be formed to work with the City Council to assess the receptiveness of the community to an active historic preservation program. The State Historic Preservation Office (SHPO) can provide copies of model and recently-adopted ordinances used by other communities for adaptation for a particular community. The SHPO will also review and approve a draft ordinance. Once a draft ordinance is ready for adoption, it should be considered as a City Council agenda item. A public hearing will be held and often those backing the ordinance have the task of explaining the HPC ordinance and Commission concept to members of the community and City Council members. The adoption of the ordinance by the City Council authorizes the appointment of a HPC by the mayor. A new HPC must establish bylaws, operating procedures, and design guidelines.

## **WHAT IS THE RELATIONSHIP BETWEEN HISTORIC PRESERVATION AND ZONING?**

Zoning regulates land use and property development through mapped land use zones and ordinances that address issues such as density, building size, street width, and other physical attributes. Heritage preservation designation is considered a specialized form of zoning in some communities but addresses different issues; it does not address land use, or the use of properties. Become familiar with the zoning ordinance in your community and understand how it affects historic resources and archaeological sites. Assess how the zoning ordinance supports or undermines the work of a heritage preservation commission. Demonstrate a sincere, constructive, and continuing interest in local zoning issues.

## **HOW DOES ZONING AFFECT HISTORIC PRESERVATION?**

A zoning ordinance establishes land use areas and specifies categories of uses, density of development, maximum building size, and other physical attributes of development. The zoning administrator applies the zoning ordinance on a daily basis and each municipality has a board that hears applications for zoning variances.

Some communities have a historic district overlay zoning, an additional layer of regulations for an area. In this case, the base zoning issues such as land use and density are addressed by zoning authorities and a design review board or HPC administers the regulations of a historic overlay zone. Such an overlay and any regulations associated with it, such as historic district design review, should be coordinated with HPC-recommended designation and regulation.

## **HOW CAN ZONING AND HISTORIC PRESERVATION WORK TOGETHER?**

To keep zoning-based decisions from adversely affecting historic resources, both the zoning and historic preservation ordinances could include clauses that state that the

preservation ordinance takes precedence over zoning when there are conflicts. Another approach is a clause in a zoning ordinance that states that there is a presumption against development, re-zonings, and variances that harm individual HPC sites and districts. HPCs should have the opportunity to comment on zoning issues that would affect historic properties and any proposed revisions to a zoning ordinance. Zoning incompatible with current use, density, lot size, and off-street parking are areas where zoning and historic preservation can conflict. Zoning that prohibits combined residential and commercial use in downtown areas can be at odds with preservation if it limits the viable use of multi-story traditionally mixed-use buildings, such as the two- and three-story commercial blocks.

(Source: *Stephen A. Morris, "Zoning and Historic Preservation" in Cultural Resources Partnership Notes.*)

## FINDING SUPPORT

### WHAT ORGANIZATIONS CAN HELP ADVOCATE FOR PRESERVATION?

#### *Local, state, and national preservation players*

There are many organizations – both those specifically geared towards the interests of historic preservationists, and those whose missions overlap with those of historic preservation – that can be called upon to provide legal, moral, technical and financial support and assistance. While organizations on the national and state level can be invaluable in providing direction and advocacy, you will find that local partners, clubs, committees, business groups and activists will be most helpful to you. The following list includes groups that are directly concerned with historic preservation issues.

The [National Trust for Historic Preservation](#) is the nation's independent (non-governmental) preservation leader and directs much of the historic preservation activities of the country. Part of its role is to support local preservation efforts through strategic planning, grants, and programs. [Barn Again!](#) is a National Trust program that provides assistance and technical information for historic barn owners. The [National Main Street Center](#) works with communities across the county to revitalize traditional commercial centers through a blend of economic development, marketing and historic preservation.

[U.S. Department of the Interior - National Park Service](#) is the department of the Federal government that is responsible for historic preservation through its [Heritage Preservation Services \(HPS\)](#). The HPS sets the standards for evaluating the nation's historic resources, maintains the National Register of Historic Places, and administers the Federal Tax Credit program.

[Advisory Council on Historic Preservation](#) is an independent Federal agency that promotes historic preservation and advises the President and Congress on preservation policy. The Advisory Council may also get involved the Section 106 process for particularly controversial or precedent-setting situations.

[Preservation Action](#) is the advocacy arm for preservation at the federal level. As a 501(c)(4) organization, its mission is to lobby for federal legislation the further historic preservation at the local, state and national level.

[Partners for Sacred Places](#) is a non-profit, non-sectarian organization that works with congregations and communities to sustain and actively use older and historic sacred places. It serves as a clearinghouse of information and technical assistance for those interested in the preservation of churches and other religious properties.

The [Minnesota State Historic Preservation Office](#) (SHPO – pronounced “Ship-O”) spearheads the state's historic preservation programs and is the state arm administering

the national preservation program. The office conducts and reviews survey work throughout the state, maintains an inventory of historic places, evaluates and nominates properties to the National Register of Historic Places, operates the federal tax credit program for Minnesota properties, runs a small grant program, and generally advocates for historic preservation. In short, it is very much a one-stop shop for preservation and the SHPO should be made aware of almost every preservation advocacy issue.

The [Minnesota Historical Society](#) has long been the keeper of Minnesota's history and historical documents. It houses the SHPO and therefore serves as a major preservation player. The Society's major collection of Minnesota archival materials, such as maps, census roles, and photographs, is indispensable source of information to historical researchers. The Society's Visual Resources Database, available through the Internet, is the first place to look for a historic photograph of a property.

The [Office of the State Archaeologist](#) is charged with the study, protection, and promotion of Minnesota's archaeological sites and materials. Any questions about verified or potential archaeological resources should be directed to this office.

The [Preservation Alliance of Minnesota](#) is Minnesota's only statewide, non-profit organization dedicated to the preservation, protection, and promotion of historic places. The Alliance develops policy positions that enhance the historic preservation cause, celebrates preservation success stories in its annual awards programs, and raises awareness of threatened properties each year through the publication of the "10 Most Endangered Historic Places" list. The educational mission is met by the coordination of tours featuring historic properties and by sponsoring workshops and conferences. The Alliance is able and willing to play an advocacy role in many preservation issues affecting the state's historic places.

The [Minnesota Chapter of the Society of Architectural Historians](#) is dedicated to the study of the state's architectural treasures. This group has been active in advocating for the preservation of important architectural resources and can be considered a good ally and resource for many issues.

[American Institutes of Architects Minnesota](#) represents and advocates for Minnesota architects, and has a presence in shaping the state's built environment. The organization also has an interest in preserving the historic built environment, especially as represented by the Historic Resources Committee. AIA-Minnesota has partnered with preservation organizations on many advocacy issues.

The [Friends of Minnesota Barns](#) is a group dedicated to the preservation of the state's historic barns and farmsteads through education and increased public awareness of these important, but rapidly vanishing, examples of Minnesota's rural heritage. The organization works on finding technical assistance and commercial re-uses for barns, and can be an excellent resource for networking with other barn aficionados.

### *Other organizations*

Other organizations, though not directly advocating for historic preservation, may become likely allies in your advocacy effort. A few are highlighted here.

The [Trust for Public Land](#) (TPL) is a non-profit group organized to protect land for human enjoyment and well-being. TPL works with landowners, government agencies and community groups to conserve and protect land and to safeguard community character by preserving historic landmarks and landscapes.

[1000 Friends of Minnesota](#) is a statewide group concerned with urban growth patterns, and the environment. Because urban sprawl has obvious interconnections with historic preservation issues, joining forces with this organization may be a way to forward the goals of both organizations.

The [American Farmland Trust](#) works for the permanent protection of farmland throughout America. This is done through conservation easements, community planning, and growth management. The policies and activities of this organization may be of use when advocating for the preservation of Minnesota's agricultural heritage.

[National Center for Preservation Technology](#) has educational, training and research programs for the use of technology in the field of historic preservation and conservation. It does not generally become involved in specific preservation issues, but could be a source of information or training.

### *Local groups*

Locally, it may be important to engage the support of organizations, such as:

- Chamber of Commerce,
- Civic groups,
- Business organizations,
- Neighborhood groups, or
- Churches.

### *Other links for useful information*

Several sources offer web links to many different organizations.

**Preservation Directory** <http://www.preservationdirectory.com/>  
**PreserveNet** <http://www.preservenet.cornell.edu/>

## ORGANIZING

### **HOW DO I ORGANIZE A LOCAL PRESERVATION ORGANIZATION?**

Preservation begins at home, and the best place to begin advocating for preservation is at the local level, among those who are most familiar with the historic resource and have the deepest convictions about its preservation. While much needed assistance can come from state and national organizations, such as the Preservation Alliance of Minnesota, most of the heavy lifting is going to take place at the local level. This takes organization.

**Organize Now.** Don't wait for the next crisis. Develop a membership base and communication system now so that you are prepared when an advocacy crisis looms. Collect names, addresses, phone numbers and e-mail addresses of other people who care about preservation in your area.

**Hold an organizational meeting.** Gather a group of people who share an interest in historic preservation. At an organizational meeting work through these four questions:

Who are we? Explore the interests, skills, contacts, and experience of group members.

Why are we meeting together? Identify what has happened recently that prompted the meeting, and then discuss the community's historic resources and potential conflicts and opportunities.

Who else should be involved? Determine to what extent the group represents the community and what additional skills and contacts are needed to make a plan for expanding the group.

Who takes the lead? Identify a chairperson or leader who will organize the group and channel its energies.

Then make plans to get together on a regular basis to share ideas.

**Develop a Leadership Corps.** Recognize that new local organizations rely on a small group of people in leadership roles. Work to establish a steering committee or leadership corps. Be prepared to shoulder some of that burden, but don't make the organization dependent on one leader any more than necessary. Develop a leadership group that brings interest and expertise to the project and will be in for the long haul. A group of leaders makes it clear that historic preservation is an interest of the community, not just one person.

**Begin to lay the groundwork for a Preservation Organization.** Explore the possibility of establishing a nonprofit, tax exempt organization. Establish committees that will

provide manpower to gather information about the community and establish priority and plans.

*What are some important steps that the organization should undertake?*

**Gather information about the community.** Become familiar with the profile of the community such as that included in a Comprehensive Plan, which addresses demographic trends and projections, data on the building stock, and land use and zoning ordinances. The goal is to understand how the community has changed over time and what forces have shaped that change and the appearance of the community. What are the current attitudes of elected officials towards historic preservation? Who is powerful and influences decisions about land use planning and zoning? How does the community feel about its current condition and opportunities for change?

**Assess local needs and opportunities.** Identify the existence of any local cultural resources surveys that identify significant properties. If no documentation exists, begin to list areas of the town and specific properties that seem to be significant for the identity of the community. Also make a list of needs, problem areas, or potential conflicts, such as a proposed downtown revitalization program, the construction of a new shopping center, deterioration, tear-downs, or redevelopment in areas of the community.

**Establish priorities for the organization to work on.** Define some criteria for work in your community, such as urgency, economics (keeping the downtown or supporting heritage tourism, for example), seriousness of the consequences, long-term impact, and level of community support. Work through the list of needs and opportunities identified and establish short term and long-term priorities for your group.

**Develop strategies, programs, and plans.** Identify partners in other local organizations and municipal programs. Be creative as you work to solve problems and promote policies. Don't overlook the successes in nearby communities or hesitate to adapt an existing program for the local situation. Think in terms of shaping an area of the community, rather than focusing on specific properties. For instance, the adoption of a moratorium on new surface parking lots would stop demolition in a commercial area while your organization promotes the adaptive reuse of existing buildings. A plan of action should help the organization focus its efforts, but should be flexible enough to respond to crisis situations.

**Consider focusing on one key project.** Determine if your organization will thrive as it tackles one key preservation project. If so, select a high-visibility project that will have a real impact on the community. Such an issue will help motivate people to join your efforts.

## HOW TO I KEEP THE MOMENTUM GOING?

**Learn From the Process.** If you try your best and are unsuccessful on a specific preservation project, apply what you have learned to the next issue. You can lose a battle, but still win the war. Work with elected officials and other community leaders to take a proactive approach to preservation and anticipate future problems. It is much easier to work on solutions before situations reach the crisis stage.

**Help Establish a Preservation Infrastructure.** Investigate the existence of comprehensive plans and other planning documents that could include a preservation component. If planning is outdated, lobby for an updated comprehensive plan or a more targeted strategic plan for an area with historic resources of concern. Study the local zoning ordinance to assess whether it supports or discourages historic preservation. Determine if your community should – and would – adopt a Heritage Preservation ordinance. If so, promote the idea and begin to work with city or county staff and local elected officials to make that happen. Work for the allocation of planning professionals to staff the HPC.

**Be a Part of the Preservation Community.** Network with preservationists in other communities. Learn from their successes and challenges. Join the Preservation Alliance of Minnesota and the National Trust for Historic Preservation. Attend the annual state historic preservation conferences.

Source: *(National Trust for Historic Preservation “Organizing for Preservation” tip sheet.)*

## HOW DO I LOBBY AN ELECTED OFFICIAL ABOUT HISTORIC PRESERVATION?

**Consider lobbying planned, strategic talking.** Plan your presentation so that it combines asking for a vote on a particular issue with some general information about the issue and a clear explanation of how that vote would benefit the official’s constituency.

**Keep the educational component issue specific.** Prepare some bullet points about the history and significance of the property. Describe a reasonable alternative to the proposed demolition, new construction, road location, etc. that would not have an adverse impact on the property in question.

**Explain how the vote you request would benefit the community – the official’s constituency.** Prepare comments on the various ways that historic preservation benefits a community. Then select those most likely to resonate with the official, such as economic growth, job creation, or revenue enhancement. Be prepared to reframe the explanation if questions and comments indicate that it is necessary. Present some realistic, short-term benefits that the official can later point to. Avoid general platitudes such as “it would be the nice thing to do.” Avoid appearing too personally attached to a property.

**Know your audience.** Determine before the lobbying opportunity whether economic development, quality of life, heritage tourism, protection of the environment, or patriotism and heritage benefits of historic preservation will interest an elected official.

**Prepare and leave a one-page summary of the issue.** This summary should include:

- Particulars of the upcoming vote or other action.
- A brief, bulleted summary of the history and significance of the property.
- The vote that you are requesting.
- A brief, bulleted summary of realistic, short-term benefits of that vote.

Source: *Rory Hays' "Zen of Lobbying" presentation, MN Historic Preservation Conference, 2004.*

## MAKING THE CASE

### WHAT ARE SOME TIPS FOR COMMUNICATING THE IMPORTANCE OF HISTORIC PRESERVATION IN A COMMUNITY?

**Get the Facts.** Don't rely on rumors. Research local ordinances and talk to local officials. Find out who makes the decisions and what the process is for making decisions.

**Have a Simple Message.** Craft a clear, simple message about your preservation issue and how it benefits the local community. Write it down, publish it and train your members to communicate a consistent message every time they speak with someone.

**Communicate Your Message.** No one will know about your efforts unless you publicize them. Write letters to the editor. Send press releases on activities, meetings and events, post flyers and newsletters at local businesses, churches and other gathering spots. If you can raise the money to do so, mail a letter directly to the residents who are affected by the preservation issue.

**Be Respectful and Develop a Responsible Reputation.** Ranting and raving will not save buildings or neighborhoods. Your patience, cooperation and tenacity will demonstrate that you are an organization that deserves respect and carries weight with voters.

### HOW DO I RAISE PUBLIC AWARENESS OF HISTORIC PRESERVATION WITH COMMUNITY LEADERS?

**Learn Your Political Landscape and Establish Relationships With Decision Makers.** Find out not only who the local decision makers are but also who their constituents are. Understand which constituents would support your position on your issue and seek them out. Visit with elected officials and decision makers before the issue heats up. Getting to know people face to face will help you when the going gets rough.

**Invite Elected Officials and Community Leaders to Address Your Group.** Invite local officials to your meetings, allow them to address your group and participate in the public ceremony. Use events as opportunities to educate local officials about your group and its objectives. Ask for their viewpoints on preservation issues. Make sure they know how many voters your group represents, and keep them informed of your activities by making sure they are on your mailing list. Follow-up with a positive thank you letter to let them know how much you appreciate their efforts. Thank them for a job well done.

**Volunteer for Political Campaigns.** Once you have determined which candidates support your preservation issue, don't be afraid to endorse them by helping them get

elected (unless you are a 501 (c) (3)). Go door-to-door, stuff envelopes, work the phones, go the polls on Election Day. If they are elected, they will remember who helped them get there.

### **HOW DOES HISTORIC PRESERVATION HELP A LOCAL ECONOMY?**

Economists who have studied the effects of historic preservation programs have determined that community preservation initiates:

- Increased loan demand.
- Enhanced property values (and therefore increases the tax base).

Studies on the effects of historic district designation show:

- Rates of appreciation in historic districts are greater than market as a whole.
- Historic districts are an important catalyst to new investment.
- Historic districts protect against wide volatile swings in real estate market.
- Not one study shows that historic districts reduce property values.

Studies show that historic preservation has an effect on the generation of sales of goods and services:

- Historic preservation is always a component of a successful downtown revitalization program.
- Main Street programs have an unparalleled cost/benefit ratio.
- Preservation's contributions to a sense of community, of belonging, ownership and evolution that establish a quality of life are priceless!

Studies show that historic preservation has an effect on job creation:

- Historic preservation creates 2.2 more jobs for the same amount spent on new construction (and most jobs are local).

Studies show that historic preservation supports heritage tourism.

- Visitors attracted by historic preservation to an area stay longer, visit twice as many places, and spend 2.5 times as much money as non-preservation visitors.

Source: *Donovan R. Rypkema, who often writes and speaks about this topic.*

### **WHAT IS A RE-USE STUDY AND HOW CAN IT HELP?**

Many buildings suffer from a preservation threat as a result of under utilization; properties that are un-used are vulnerable to demolition and deterioration. Feasible and appropriate uses for historic buildings are not always readily apparent. The Minnesota State Historic Preservation Office has conducted numerous re-use studies for threatened and challenging historic properties over many years. This approach brings a team of professionals to meet with community leaders and activists to provide thoughtful and reasoned analyses of potential re-uses for historical properties.

Typically, the re-use team is composed of a design professional, real estate and marketing specialist, and building construction or conservationist expert. The team composition may vary according to the special needs of the unique property, and may also include urban planners, tourism specialists, attorneys, or those with a specialized knowledge of certain facility types, such as medical complexes. Once the team is assembled, the process begins by researching the background and history of the property. Then, during a several-day, intensive process, the team conducts on-site investigation of the property and numerous individual interviews with community members who have local knowledge of all issues surrounding the property. These local participants would include the preservation supporters, as well as those who challenge the building's preservation, in order to achieve a balanced analysis that includes a broad range of opinions. The interviews are used to explore economic and market incentives, understand the architectural constraints, analyze community-planning issues, and to get feedback on preliminary re-use alternatives. The team will take the information obtained during the interview process, analyze the data, and produce a report or presentation for the community outlining the recommendations for, and feasibility of, the building's future use. The process has been effective in bringing together potential users or development partners, raising awareness in the community, and providing a springboard that leads to implementation of a building's re-use and preservation.

## MONEY AND OTHER TOOLS FOR PRESERVATION

### WHERE DO I FIND FUNDING FOR PRESERVATION?

A preservation advocacy issue often involves the matter of money. In general, preservation projects are funded at the local level by property owners. **There are no major sources of grant money for preserving privately or even publicly owned properties.** Small grant programs do exist and some are available through The National Trust, the nation-wide preservation advocacy organization, and through the Minnesota State Historic Preservation Office. Some state and local advocacy groups can provide direction to other grant programs.

#### *The National Trust for Historic Preservation grant programs*

##### *Preservation Services Fund*

This program provides matching grants for preservation planning and education efforts to nonprofit organizations and public agencies. Funds may be used to obtain professional expertise in areas such as architecture, archaeology, engineering, preservation planning, land-use planning, fundraising, organizational development and law, as well as preservation education activities. Grants range from \$500 to \$5,000.

##### *The Hart Family Fund for Small Towns*

This fund was established to assist small town preservation and revitalization initiatives around the country. It works within the structure of Preservation Services Funds to serve towns with populations of 5,000 or less.

##### *Intervention Funds*

The Trust's intervention fund enables it to respond quickly and flexibly when preservation emergencies occur. These funds are awarded to public agencies or nonprofit organizations and consultants and experts can be paid directly for their services. This fund enables the response to damage caused by fire and natural disasters. Grants range from \$500 to \$5,000.

##### *Johanna Favrot Fund for Historic Preservation*

This fund provides matching grants to nonprofit organizations and public agencies for projects that contribute to preservation or recapture an authentic sense of place. Funds may be used for professional advice, conferences, workshops, and educational programs. Individuals and for-profit businesses can apply for projects involving National Historic Landmarks. Grants range from \$2,500 to \$10,000.

### *Cynthia Wood Mitchell Fund for Historic Interiors*

Nonprofit organizations and public agencies are eligible for matching grants to assist in the preservation, restoration, and interpretation of historic interiors. Funds may be used for professional expertise, communications materials, and educational programs. Individuals and for-profit businesses can apply for projects involving National Historic Landmarks. Grants range from \$2,500 to \$10,000.

Additional, more specific grant programs are described on the National Trust website.

### *Minnesota Historical Society grant programs*

#### *State Capital Projects Grants-in-Aid*

State Capital Projects Grants-in-Aid support historic preservation projects of a capital nature. These grants are available to public entities as defined by law, including county and local jurisdictions. Non-profit organizations whose primary purpose is historical preservation and/or interpretation and occupy a building owned by a public entity may also be eligible to apply. The minimum grant is \$10,000, and the maximum \$75,000. Funds must be matched at least 1 to 1. Matching funds may be cash, in-kind and/or donated services or materials contributed to the project. Generally, to be eligible for funding, the work must meet the following conditions:

- The expenditure funded must be for a public purpose;
- The property assisted must be publicly owned;
- The project expenditures funded must be for land, buildings, or other improvements of a capital nature; and
- The work must meet the Secretary of the Interior's Standards for Rehabilitation.

Three types of historic preservation projects are eligible for funding. They are:

- Acquisition,
- Restoration and/or Preservation, or
- Building Systems and Accessibility.

#### *State Grants-in-Aid*

State Grants-in-Aid support projects conducted by organizations and institutions that interpret and preserve Minnesota's history. Primary recipients are regional, county and local non-profit organizations whose primary purpose is historical preservation and/or interpretation. The maximum grant award is currently \$6,000 for properties listed on or determined eligible for listing on the National Register of Historic places; all other categories are also \$6,000. The maximum amount for a microform copies project is \$2,500. Funds must be matched at least 1 to 1 through cash, in-kind and/or donated services or materials contributed to the project. The primary recipients of state grants-in-

aid awards are regional, county and local nonprofit organizations whose primary purpose is historical preservation and/or interpretation. Applications will also be considered from other nonprofit organizations and from units of government when the projects they propose are among those described below in Eligible Projects. Projects from non-historical organizations should fill a need that is not being met by a historical organization.

This program has 10 different project categories.

1. Historic Properties
2. Artifact Collections
3. Interpretive Programs
4. Microform Copies
5. Oral History
6. Photographic Collections
7. Manuscripts
8. Publications and Research
9. Museum Environments
10. Technology

For more information on these grant programs, contact the Minnesota State Historic Preservation Office of the Minnesota Historical Society.

### ***Private Foundations***

Private foundations fund a wide variety of charitable projects, although few exclusively provide funding for historic preservation. Often, foundations express specific interest areas that may overlap with your preservation project. These may include small town revitalization, rural issues, or artistic endeavors. Frequently, foundations limit their activity to geographic locations, so finding foundations focused on your community could be important. Guides to foundations, specifying interest areas and giving patterns, are available at many public libraries.

### **WHAT TAX INCENTIVES ARE AVAILABLE FOR HISTORIC PRESERVATION?**

The Federal Historic Preservation Tax Incentives program fosters private sector rehabilitation of historic buildings and promotes economic revitalization. The Federal Historic Preservation Tax Incentives are available for buildings that are National Historic Landmarks, that are listed in the National Register, and that contribute to National Register Historic Districts and certain local historic districts. Properties must be income-producing and must be rehabilitated according to standards set by the Secretary of the Interior. The 20 percent tax credit program was initiated in 1976.

### **What types of properties can the tax credits be used on?**

Abandoned or under-used schools, warehouses, factories, churches, retail stores, apartments, hotels, houses, and offices in many cities have been returned to life in a manner that retains their historic character. The Preservation Tax Incentives have also helped to create moderate- and low-income housing in historic buildings. The 20 percent credit is available only to properties rehabilitated for income-producing purposes, including commercial, industrial, agricultural, rental residential or apartment use.

### **Is there a type of property that the tax credits cannot be used on?**

The credit cannot be used to rehabilitate your personal residence in which you live. However, if a portion of a personal residence is used for business, such as an office or a rental apartment, in some instances the amount of rehabilitation costs spent on that portion of the residence may be eligible for the credit. The conversion of buildings to condominiums does not generally qualify for the tax credit program.

### **How can you begin to assess whether a project would be eligible for tax credits?**

There are **4 factors** that can help determine whether a rehabilitation project proposal would meet the basic application requirements for the 20 percent tax credit.

1. The historic building must be listed, or are in the process of being listed in the National Register of Historic Places, either individually or as a contributing building within a historic district.
2. After rehabilitation, the historic building must be used for an income-producing purpose for at least five years. Owner-occupied residential properties do not qualify for the federal rehabilitation tax credit.
3. The project must meet the “substantial rehabilitation test.” In brief, this means that the cost of rehabilitation must exceed the pre-rehabilitation value of the building. Generally, this test must be met within two years or within five years for a project completed in multiple phases.
4. The rehabilitation work must be done according to the [\*Secretary of the Interior’s Standards for Rehabilitation\*](#). These are ten principles that, when followed, ensure the historic character of the building has been preserved in the rehabilitation.

### **Can you apply for tax credits for a completed project?**

By federal regulation, a rehabilitation project completed *prior* to submitting a request for “certified historic structure” status cannot qualify for the rehabilitation tax credit. The application process for the tax credit program includes the completion of a detailed description of the proposed work to be undertaken on the property. The completed work must be certified as matching the work described in the application and meeting the *Secretary of Interior’s Standards for Rehabilitation*.

For more information on this program, see [\*Incentives! A Guide to the Federal Historic Preservation Tax Incentives Program for Income Producing Properties.\*](#)

### **HOW DOES MINNESOTA’S “THIS OLD HOUSE” PROGRAM WORK?**

Minnesota's “This Old House” program gives a property tax break to many owners of historic houses (defined as at least 45 years old). The program provides that improvements adding at least \$5,000 of value to homesteaded property are excluded from the value of the property for tax purposes. This allows homeowners to restore and renovate their houses without having to pay a tax “penalty” for making improvements.

### **WHAT IS A PRESERVATION EASEMENT?**

A preservation easement is a legal document between a property owner and a non-profit or government organization, providing that organization with a partial interest in a historic property. The easement limits the present and any future owner’s ability to alter or degrade the features made subject to the easement. The easement is recorded with the property’s deed and may be granted on one or more exterior façades, interior architectural features, natural landscape, and open space. An easement will not only provide provisions for protecting the historic resource into perpetuity, but may also allow a tax benefit to the donor/owner. Easements can be important tools that help to assure the care and maintenance of historic features, especially when financial incentives, such as tax deductions, are enacted. The Preservation Alliance of Minnesota accepts easements on historic properties. For more information contact the Alliance.

### **ARE THERE EXISTING PROGRAMS THAT CAN HELP PRESERVE A DOWNTOWN COMMERCIAL AREA?**

The National [Main Street](#) program, active since 1980 is a proven approach that saves historic commercial buildings and is an economic development tool as well. The goal of the Main Street program is to improve all aspects of the downtown or central business district and to produce both tangible and intangible benefits. The practical strategy, which is appropriately scaled to a community's local resources and conditions, is a locally driven program; all initiative stems from local issues and concerns.

The program addresses four broad areas of an older commercial district:

**Design** The program encourages the enhancement of the physical appearance of the commercial district through the rehabilitation of historic buildings, appropriate new construction, and long-term planning.

**Organization** The program supports building consensus and cooperation among the many groups and individuals who have a role in the revitalization process.

**Promotion** The program recognizes the importance of marketing the traditional commercial district's assets to customers, potential investors, new businesses, local citizens and visitors.

**Economic Restructuring** The program works to strengthen the district's existing economic base while finding ways to expand it to meet new opportunities and challenges from outlying development.

Minnesota does not have a state-wide Main Street organization, although Main Street programs have been introduced in Owatonna and St. Paul.

### **WHAT ARE THE SECRETARY OF INTERIOR'S STANDARDS FOR REHABILITATION?**

The U. S. Department of the Interior developed the *Secretary of Interior's Standards for Rehabilitation* in 1978. These standards are part of the more encompassing *Secretary of the Interior's Standards for the Treatment of Historic Properties*. The National Park Service (NPS) developed the standards in order to evaluate applications for the Historic Preservation Fund grand-in-aid program and Tax Act projects. The approach to historic properties embodied in the *Standards* now guides many preservation projects because states and municipalities also use them to evaluate project proposals. The *Standards* are intended to apply to a wide variety of resource types, historic districts as well as buildings, sites, structures and objects. Similar standards have been developed for preservation, restoration, and reconstruction projects. For further information see <http://www.cr.nps.gov/hps/tps/standguide/index.htm>.

#### The Secretary of Interior's Standards for Rehabilitation

1. A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.
2. The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.
3. Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.
4. Changes to a property that have acquired historic significance in their own right will be retained and preserved.
5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.
6. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials.

- Replacement of missing features will be substantiated by documentary and physical evidence.
7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
  8. Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.
  9. New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.
  10. New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.