

# **HOLYOKE HISTORICAL COMMISSION**

## **Preservation Restrictions for Community Preservation Act Historic Preservation Funded Projects**

### **Community Preservation Act Historic Preservation Funding**

Historic Preservation funding through the Community Preservation Act (CPA) allows for the preservation of a building, structure, vessel, real property, document, or artifact (historic resource) that is on the Massachusetts Register of Historic Places (MRHP) **or** that has been determined by the Holyoke Historical Commission to be a resource that is significant in the history, archeology, architecture, or culture of Holyoke. Funds may only be provided for the acquisition, preservation, rehabilitation, or restoration of a historic resource. For rehabilitation projects, work must comply with the U.S. Secretary of the Interior's Standards for Rehabilitation.

### **Preservation Restrictions**

A Preservation Restriction (PR) is a voluntary legal agreement that protects a significant historic, archaeological, or cultural resource. It provides assurance that a historic or culturally significant property's intrinsic values will be preserved through subsequent ownership by restricting the demolition or alteration of its significant historic features. A Preservation Restriction is filed at the Registry of Deeds and runs with the land. It usually focuses on exterior architectural features, but can also address significant interior spaces. Though a Preservation Restriction does not necessarily require public access, it may include provisions for annual open houses or similar public events if deemed appropriate.

Perpetual preservation restrictions are required whenever CPA funds are used to purchase a real property interest. The Holyoke Community Preservation Committee (CPC) also requires that non-municipally owned CPA funded historic preservation projects must agree to place preservation restrictions on project properties. The HHC as the appointed body for the preservation, protection and development of the historic or archaeological assets of the City of Holyoke, holds these preservation restrictions on behalf of the City of Holyoke and CPC. The HHC will help identify historically significant features that shall be included as part of the description within preservation restrictions and shall make the determination for the CPC on what features of the historic resource shall be controlled as part of the preservation restriction. HHC shall control all major changes to the historic resource, that can be seen from a public right of way, as outlined in *ATTACHMENT A - Restriction Guidelines*. Preservation restrictions may be placed on interior spaces or features if CPA funds supported the acquisition, preservation, rehabilitation, or restoration of an interior space or feature. **NOTE:** *It is the HHC opinion that CPA historic preservation funds should only be granted to interior spaces that are public spaces or spaces that are regularly open to the public.*

### **Enforcing Preservation Restrictions**

#### **Alterations & Maintenance**

The HHC will be responsible for enforcing preservation restrictions and will have authority over proposed alterations to the historic resources. The property owner assumes the total cost of continued maintenance, repair and administration of the historic resource according to the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings. The property owner may seek financial assistance from any source available to it. The HHC does not assume any obligation for maintaining, repairing or administering the historic resource.

No alterations shall be made to the historic resource unless

- a) clearly of minor nature, including ordinary maintenance and repairs, and not affecting the characteristics which contribute to the architectural or historical integrity of the historic resource as defined in Attachment A
- b) the HHC has previously determined that it will not impair such characteristics after reviewing plans and specifications

- c) required by casualty or other emergency promptly reported to the HHC.
- d) they are interior changes and the preservation restriction is for the exterior of the historic resource only
- e) the changes cannot be viewed from the public right of way and the preservation restriction does not specify any historic feature that cannot be viewed from the public right of way.

The HHC will approve or deny proposed changes based on information provided by the property owner which will include the description of the nature, scope, design, location, timetable and any other material aspect of the proposed activity so that the HHC can make an informed decision. The grantee should provide plans, specifications, current photos, historic photos, maps, and narrative descriptions that will illustrate the proposed changes. This information shall be provided to HHC at least thirty (30) days before the proposed changes are to be made. The HHC shall not unreasonably withhold approval and must decide within sixty (60) days from the date on which the request is accepted by the HHC, unless the property owner requests an extension.

#### Enforcement

The HHC or its agent or representative will inspect the historic resource annually to determine whether the property owner is compliant with the terms of the preservation restriction. The inspection will include

- documentation of any changes made to the historic resource since the last annual report;
- documentation of the maintenance and upkeep of the property since the last annual report;
- photographs showing the overall historic resource and significant historic details that are to be taken at the same location from year to year so they can be compared to past photographs;
- and photographs of interiors of the historic resource if interior spaces are part of the preservation restriction.

The HHC shall give the property owner written notice of any violation and allow thirty (30) calendar days to correct the violation before taking any formal action. The HHC may take formal action immediately if it determines that an ongoing or imminent violation will irreversibly diminish or impair the cultural, historical and/or architectural importance of the historic resource.

The HHC has the right to prevent and correct violations of preservation restrictions and may exercise its discretion to seek injunctive relief in a court having jurisdiction. If a court determines that a violation exists or has occurred it may:

- issue a mandatory injunction
- stop the violation, temporarily or permanently
- require the property owner to restore the historic resource to a condition that would be consistent with the preservation purposes of the preservation restriction
- require the property owner to reimburse the HCC for all their expenses incurred in stopping, preventing, and/or correcting the violation, including, but not limited to, reasonable attorney's fees.

The failure of the HHC to discover a violation or to take immediate action to correct a violation shall not bar it from doing so later.

## **ATTACHMENT A**

### **RESTRICTION GUIDELINES**

The purpose of the Restriction Guidelines is to clarify Paragraph Three of the Terms of the Preservation Restriction Agreement, which deals with alterations to the Premises. Under this Paragraph, prior permission from the Holyoke Historical Commission is required for any major alteration. Alterations of a minor nature, which are part of ordinary maintenance and repair, do not require the Commission's prior review.

In an effort to explain what constitutes a minor alteration and what constitutes a major change, which must be reviewed by the Commission, the following list has been developed. By no means is this list comprehensive: it is only a sampling of some of the more common alterations, which may be contemplated by building owners.

#### **PAINT**

Minor - Exterior hand scraping and repainting of non-decorative and non-significant surfaces as part of periodic maintenance.

Major - Painting of any masonry.

#### **WINDOWS AND DOORS**

Minor - Regular maintenance including caulking, painting and necessary reglazing. Repair or in-kind replacement of existing individual decayed window parts.

Major - Wholesale replacement of units; change in fenestration or materials; alteration of profile or setback of windows as well as any level of stained glass window conservation/restoration. The addition of storm windows is also considered a major change; however, with notification it is commonly acceptable.

#### **EXTERIOR**

Minor - Spot repair of existing cladding and roofing including in-kind replacement of stucco, slates, etc.

Major - Large-scale repair or replacement of cladding or roofing. Change involving inappropriate removal or addition of materials or building elements (i.e., removal of chimneys or cornice detailing; installation of architectural detail which does not have a historical basis); altering or demolishing building additions; spot pointing of masonry. Structural stabilization of the Premises is also considered a major alteration.

#### **LANDSCAPE**

Minor - Routine maintenance of landscape including lawn mowing, pruning, planting.

Major – Erecting fencing or walls.