

**17.23 HISTORIC PRESERVATION DISTRICT. (1) PURPOSE AND INTENT.**

It is hereby declared a matter of public policy that the protection, enhancement, perpetuation and use of improvements or sites of special character, special architectural or historic interest or value is a public necessity and is required in the interest of health, prosperity, safety and welfare of the citizens. The purpose of this section is to:

- (a) Effect and accomplish the protection, enhancement and perpetuation of such improvements, sites and districts which represent or reflect elements of the cultural, social, economic, political and architectural history of this City.
- (b) Safeguard the historic and cultural heritage of this City, as embodied and reflected in such historic structures, sites and districts.
- (c) Foster civic pride in the notable accomplishments of the past.
- (d) Stabilize and improve property values.
- (e) Protect and enhance attractions to residents, tourist and visitors, and to serve as a support and stimulus to business and industry.
- (f) Improve and enhance the visual and aesthetic character of this City.
- (g) Educate the public regarding the need and desirability of a City Historic Preservation Program and its enhancement of the quality of life.

**ZONING CODE 17.23 (2) (2) DEFINITIONS.**

The terms used herein shall be defined as follows:

- (a) Certification of Appropriateness. The certificate issued by the Historic Preservation Commission approving alteration, rehabilitation, construction, reconstruction or demolition of a historic structure, historic site or any improvement in a historic district.
- (b) Commission. The Historic Preservation Commission created under this section.
- (c) Historic Preservation District. An area designated by the Council on recommendation of the Commission that contains 2 or more historic improvements or sites.
- (d) Historic Site. Any parcel of land with historic significance due to substantial value in tracing the history or prehistory of man, or upon which a historic event has occurred, and which has been designated as a historic site under this section or an improvement parcel, or part thereof, on which is situated a historic structure and any abutting improvement parcel thereof, used as and constituting part of the premises on which the historic structure is situated.
- (e) Historic Structure. Any improvement which has a character or special historic interest or value as part of the development, heritage or cultural characteristics of this City, the State or nation and which has been designated as a historic structure pursuant to the provisions of this section.

(f) Improvement. Any building, structure, place, work of art or other object constituting a physical betterment of real property, or any part of such betterment, including streets, alleys, sidewalks, curbs, lighting fixtures, signs and the like.

(g) Improvement Parcel. The unit of property which includes a physical betterment constituting an improvement and the land embracing the site thereof, and is treated as a single entity for the purpose of levying real estate taxes, provided that the improvement parcel also includes any unimproved area of land which is treated as a single entity for such tax purposes.

**(3) HISTORIC PRESERVATION COMMISSION CREATED.**

A Historic Preservation Commission is hereby created, consisting of 7 members. The membership, if available in the City, shall consist of a registered architect, a historian, a licensed real estate broker, an Alderperson and 3 citizen members. Each member shall have, to the highest extent practicable, a known interest in historic preservation. The Mayor shall appoint the Commissioners, subject to confirmation by the Council, for staggered 3 year terms.

**(4) HISTORIC STRUCTURE, HISTORIC SITE AND HISTORIC DISTRICT DESIGNATION CRITERIA.**

(a) For purposes of this section, a historic structure, historic site or historic district designation may be placed on a site, natural or improved, including any building, improvement or structure located thereon, or any area of particular historic, architectural, archeological or cultural significance to this City such as historic structures, sites or districts which:

1. Exemplify or reflect the broad cultural, political, economic or social history of the nation, State or City; or
2. Are identified with historic personages or with important events in national, State or local history; or
3. Embody the distinguishing characteristics of an architectural type or specimen inherently valuable for a study of a period, style, method of construction or of indigenous materials or craftsmanship; or
4. Are representative of the notable work of a master builder, designer or architect who influenced his age; or
5. Have yielded, or may be likely to yield, information important to prehistory or history.

(b) The Commission shall adopt specific operating guidelines for historic structure, historic site and historic district designations, providing such are in conformance with this section.

**(5) POWERS AND DUTIES.**

(a) Designation of Sites, Structures and Districts. The Commission shall have the power, subject to sub. (4) above, to designate historic structures and sites and to recommend designation of historic districts within the City limits. Such designations shall be made

based on the criteria set forth in sub. (4) above. Historic districts shall be approved by the Council. Once designated, such historic structures, sites and districts shall be subject to all provisions of this section.

(b) Regulation of Construction, Reconstruction, Alteration and Demolition.

**1.** No owner or person in charge of a historic structure, historic site or structure within a historic district shall reconstruct, alter or demolish all or any part of the exterior of such property or construct any improvement upon such property or properties, or cause or permit any such work to be performed upon such property or demolish such property unless a certificate of appropriateness has been granted by the Commission. Also, unless the Commission has granted such certificate, the Building Inspector shall not issue a permit for any such work.

**2.** Upon filing of any application for a certificate of appropriateness with the Commission, the Commission shall approve the application unless

**a.** In the case of a designated historic structure or historic site, the proposed work would detrimentally change, destroy or adversely affect any exterior feature of the improvement or site upon which said work is to be done; or

**b.** In the case of construction of a new improvement upon a historic site, or within a historic district, the exterior of such improvement would adversely affect or not harmonize with the external appearance of other neighboring improvements on such site or within the district; or

**c.** In the case of any property located in a historic district, the proposed construction, reconstruction, exterior alteration or demolition does not conform to the purpose and intent of this chapter and to the objectives and design criteria of the historic preservation plan for said district; or

**d.** The building or structure is of such architectural or historic significance that its demolition would be detrimental to the public interest and contrary to the general welfare of the citizens of this City and the State; or

**e.** The building or structure is of such old, unusual or uncommon design, texture and/or material that it could not be reproduced without great difficulty and/or expense; or

**f.** Retention of the building or structure in its current condition would promote the general welfare of the citizens of the City or the State by encouraging the study of American history, architecture and design, or by developing an understanding of American culture and heritage; or

**g.** The building or structure is in such a deteriorated condition that it is not structurally or economically feasible to preserve, restore or use it,

provided that any hardship or difficulty claimed by the owner which is self-created or which is the result of any failure to maintain the property in good repair cannot qualify as a basis for the issuance of a certificate of appropriateness; or

**h.** Any new structure proposed to be constructed, or change is use proposed to be made, is not compatible with the buildings and character of the area in which the subject property is located.

3. In addition, in determining whether to issue a certificate of appropriateness, the Commission shall consider and may give decisive weight to any or all of the following standards:

a. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.

b. Each property shall 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 architectural elements from other buildings shall not be undertaken.

c. Most properties change over time and those changes that have acquired historic significance in their own right shall be retained and preserved.

d. Distinctive features, finishes and construction techniques or examples of craftsmanship that characterize a property shall be preserved.

e. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old design, color, texture and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical or pictorial evidence.

f. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structure, if appropriate, shall be undertaken using the gentlest means possible.

g. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

h. New additions or exterior alterations or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale and architectural features to protect the historic integrity of the property and its environment.

i. New additives and adjacent or related new construction shall 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.

4. If the Commission determines that the application for a certificate of appropriateness and the proposed changes are consistent with the character and features of the property or district, it shall issue the certificate. The Commission shall make this decision within 45 days of the filing of the application, at which time the property owner shall be notified by a certified letter with copies also delivered to the City Clerk and the Building Inspector.

5. Should the Commission fail to issue a certificate of appropriateness due to the failure of the proposal to conform to the guidelines, the applicant may appeal such decision to the Board of Zoning Appeals within 45 days of service of the Plan Commission's decision on the property owner. In addition, if the Commission fails to issue a Certificate, the Commission shall, with the cooperation of the applicant, work with the applicant in an attempt to obtain a certificate within the guidelines of this section.

6. Agencies of the City, school district, churches and all public utility and transportation companies or other bodies of government undertaking projects affecting historic structures, historic sites or historic districts shall be required to obtain a certificate of appropriateness prior to initiating any changes in the character of street paving, sidewalks, utility installations, lighting, trash receptacles, benches, walls, fences, structures, buildings on property, easements or streets owned or franchised by the City.

7. The issuance of a certificate of appropriateness shall not relieve the applicant from obtaining other permits and approvals required by the City. A building permit or other municipal permit shall be invalid if it is obtained without the presentation of the certificate required for the proposed work.

8. Compliance with certificates of appropriateness shall be substantially completed within 18 months after the issuance of the certificate and work shall conform to the provisions of the certificate. Failure to comply with a certificate or failure to obtain a certificate shall be a violation of this section. In addition to other penalties and remedies, the City shall issue a stop work order and all work shall cease on the designated property.

9. Ordinary maintenance and repairs may be undertaken without a certificate of appropriateness provided that the work involves repairs to existing features of a historic structure or site or the replacement of elements of a structure with pieces identical in

appearance and provided that the work does not change the exterior appearance of the structure or site and does not require the issuance of a building permit.

**(6) PROCEDURES.**

(a) Designation of Historic Structures and Historic Sites.

1. The Commission may, after notice and public hearing, designate historic structures and historic sites and recommend designation of historic districts or rescind such designation or recommendation after application of the criteria in sub. (4) above. At least 30 days prior to such hearing, the Commission shall notify the owners of record, as listed in the office of the City Clerk, who are the owners of the property affected as well as those who are owners of property adjoining the boundaries of the property affected. These owners shall have the right to confer with the Commission prior to the final action by the Commission on the designation. Notice of such hearings shall also be published as a Class I notice under the Wisconsin Statutes in the official City newspaper. The Commission shall also notify the Street Department, the Fire Department, the Police Department, the Building Inspector, the Utility Commission and the Plan Commission. Each such Department shall respond to the Commission within 30 days of notification with its comments on the proposed designation or rescission. 17 - 41 R:\BRFMUNICIPALCODE\CHAPTER 17 ZONING CODE.docx ZONING CODE 17 . 2 3 (6) 2. The Commission shall then conduct such public hearing and, in addition to the notified persons, may hear expert witnesses and shall have the power to subpoena such witnesses and records as it deems necessary. The Commission may conduct an independent investigation into the proposed designation or rescission. Within 10 days after the close of the public hearing, the Commission shall designate the property as either a historic structure or historic site or rescind the designation. After the designation or rescission has been made, notification shall be sent to the property owner or owners by certified mail. Notification shall be given to the City Clerk, the Building Inspector, the Plan Commission and the Mayor. The Commission shall cause the designation or rescission to be recorded, at City expense, in the Jackson County Register or Deeds office or the recommendation to be submitted to the Council as provided by sub. (4)(a) above. (b) Creation of Historic District. 1. For preservation purposes, the Commission may select geographically defined areas within the City to be designated as historic districts. A historic district may be designated for any geographical area of particular historic, architectural or cultural significance to the City after application of the criteria in sub. (4) above. 2. Review and Adoption Procedure. a. The Commission shall hold a public hearing when creating a plan for a historic district. Notice of the time, place and purpose of such hearing shall be given by publication as a Class I notice in the official City newspaper. Notice of the time, place and purpose of the public hearing shall also be sent by the City Clerk to the Alderperson of the ward in which the historic district is located and the owners of record, as listed in the office of the City Clerk, who are owners of the

property within the proposed historic district. These owners shall have the right to confer with the Commission prior to the final action by the Commission on the designation. Said notice is to be sent at least 30 days prior to the date of the public hearing. Following the public hearing, the Commission shall vote to recommend, reject or withhold action on the plan. b. The Council, upon receipt of the recommendation from the Commission shall either designate or reject the historic district. Designation of the historic district shall constitute adoption of the plan prepared for that district and direct the implementation of said plan.

(7) NOMINATION OF HISTORIC STRUCTURE, HISTORIC SITE OR HISTORIC DISTRICT. In order for property to be designated a historic site or historic structure, or for a historic district to be considered, a nomination form shall be completed and brought before the Commission. Nomination forms shall be available at the City Clerk's office.

(8) INTERIM CONTROL. No building permit shall be issued by the Building Inspector for alteration, construction, demolition or removal of a nominated historic structure, historic site or any property or structure within a nominated historic district from the date of the meeting of the Commission at which a nomination form is first presented until the final disposition of the nomination by the Commission or the Council unless such alteration, removal or demolition is authorized by formal resolution of the Council as necessary for public health, welfare or safety. In no event shall the delay be for more than 180 days.

17 - 42 R:\BRFMUNICIPALCODE\CHAPTER 17 ZONING CODE.docx ZONING CODE 17.23 (9) (9) APPEAL PROCESS. The owner of any property that is affected by a decision of the Historic Preservation Commission may appeal the decision to the Common Council. Property owners shall have 45 days after designation to request an appeal. The Common Council may overturn a decision of the commission by a majority vote of the Common Council. The decision of the Common Council is the final administrative appeal.

(10) CONFORMATION WITH REGULATIONS. Every person in charge of a historic structure, historic site or improvement in a historic district shall maintain same or cause or permit it to be maintained in a condition consistent with the provisions of this section. The Council may appoint the Building Inspector or any other individual or group of individuals to enforce this section.

(11) PENALTIES FOR VIOLATIONS. Any person who shall violate any provision of this section shall be subject to a forfeiture of \$200 for each separate violation. Each and every day during which a violation continues shall be deemed a separate offense. Notice of violation shall be issued by the Building Inspector.

(12) EMERGENCY CONDITIONS. In any case where the Building Inspector determines that there are emergency conditions dangerous to life, health or property affecting a historic structure, historic site or a property in a historic district, the Inspector may order the remedying of these conditions without the approval of the Commission. The Inspector shall promptly notify the Commission of the action being taken. When the emergency conditions do not require demolition, the Inspector shall make every effort to carry out the intent of this section and to

use the design guide-lines of the Commission when remedying the emergency conditions.