

## Chapter 31

## Historic Preservation

- 31.01 Purpose and Intent
- 31.02 Definitions
- 31.03 Historic Preservation Commission
- 31.04 Historic Structure, Historic Site, and Historic Designation Criteria
- 31.05 Powers and Duties
- 31.06 Procedures
- 31.07 Interim Control
- 31.08 Emergency Conditions
- 31.09 Penalties for Violations
- 31.10 Separability

## 31.01 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 or special architectural, archeological or historic interest or value is in the public interest. The purpose of this section is to:

- (1) Effect and accomplish the protection, enhancement, and preservation of such improvements, sites and districts which represent or reflect the city's cultural, social, economic, political and architectural history.
- (2) Safeguard the city's historic, and cultural heritage, as embodied and reflected in such historic structures, sites, and districts.
- (3) Stabilize and improve property values.
- (4) Enhance the visual and aesthetic character of the city, foster neighborhood identity and interconnectedness, and create a sense of place.
- (5) Protect and enhance the city's attractions to residents, tourists and visitors, and serve as a support and stimulus to business and industry.
- (6) Foster civic pride in the notable accomplishments of the past.

## 31.02 DEFINITIONS

The definitions shall be as follows:

- (1) **Certificate of Appropriateness** means the certificate issued by the Historic Preservation Commission approving alteration or demolition of a local historic structure, historic site or any improvement in a historic district designated under the provisions of this chapter, or new construction on a historic site designated under the provisions of this ordinance.
- (2) **Commission** means the Historic Preservation Commission created under this chapter.
- (3) **Historic**, in the context of this chapter, means famous or important of which is great and lasting that has happened in the past and has been preserved to exist today.
- (4) **Historic district**, local, is an area designated under the provisions of this chapter by the Common Council that contains historic improvements or sites and shall adhere to the provisions of this chapter.
- (5) **Historic District, State & National Register**, is a district having national significance as defined by the National park Service. National Register Historic District designation is

primarily honorary but carries with it the potential for owners to use rehabilitation tax credits for historic preservation.

- (6) **Historic site** means any parcel of land of historic significance due to a substantial value in tracing the history of humanity, or upon which a historic event has occurred, and which has been designated as a historic site under the provisions of this chapter, or an improvement parcel, or part thereof, on which is situated a historic structure and any abutting improvement parcel, or part thereof, used as and constituting part of the premises on which the historic structure is situated.
- (7) **Historic structure** means any improvement which has a special character or special historic interest or value as part of the development, heritage or cultural characteristics of the city, state or nation and which has been designated as a historic structure pursuant to the provisions of this chapter.
- (8) **Improvement** means 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.

### 31.03 HISTORIC PRESERVATION COMMISSION

- (1) **Composition.** A Historic Preservation Commission is hereby created, consisting of five members and two alternates. Each member should have, to the extent practicable, a known interest in landmarks, preservation, architecture, and urban design. If possible, the Commission should include an architect, landscape architect, architectural historian, archeologist, historian, and an alderperson. The mayor shall appoint the commissioners subject to confirmation by the Common Council. Members shall serve a term of three years with the alderperson serving the length of the aldermanic term. Members shall have staggered terms. Vacancies shall be filled for the unexpired term in the same manner as appointment.
- (2) **Powers and Duties.** The Historic Preservation Commission shall have the power, subject to Subsection 31.05 below, to recommend designation of local historic structures, historic sites, and historic districts within city limits. Such recommendation of designations shall be made based on Subsection 31.04 below. Local historic structures, historic sites, and historic districts shall be approved by the Common Council. Once designated, such historic structures, sites and districts shall be subject to all the provisions in this section.

### 31.04 HISTORIC STRUCTURE, HISTORIC SITE AND HISTORIC DISTRICT DESIGNATION CRITERIA

- (1) Two types of historic designations exist; locally designated and State & National Register. A historic district can have either or both of these designations. Local designation recognizes the importance of preserving the historic resource and requires proposed exterior improvement to obtain a Certificate of Appropriateness. For purposes of this ordinance, a local historic structure, historic site, or historic district designation may be placed on any site, natural or improved, including any building, improvement or structure located thereon, or any area of particular historic, architectural, archeological or cultural significance to the city and which:

- (a) Exemplify or reflect the broad cultural, political, economic or social history of the nation, state or community; or
- (b) Are identified with historic personages or with important events in national, state or local history, or
- (c) Embody the distinguishing characteristics of an architectural type of specimen inherently valuable for a study of a period, style, method of construction, or of indigenous materials or craftsmanship; or
- (d) Are representative of the notable work of a master builder, designer or architect who influenced his age; or
- (e) have yielded, or may be likely to yield, information important to prehistory or history.

### 31.05 POWERS AND DUTIES

- (1) Designation. The Common Council shall have the power, subject to Section 31.04, to locally designate historic structures, historic districts, and historic sites within the city limits, upon the recommendation of the Historic Preservation Commission. Such designations shall be made based on Section ~~31.04~~ 31.04. Once locally designated, such historic structures, sites and districts shall be subject to all provisions of this ordinance.
- (2) Regulation of Construction, Reconstruction, Alteration and Demolition
  - (a) No owner or person in charge of a local historic structure, historic site or structure within a local historic district shall, alter or demolish all or any part of the exterior of such property or construct any improvement upon such designated 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 Historic Preservation Commission. Also, unless such certificate has been granted by the Historic Preservation Commission, the building inspector shall not issue a permit for any such work.
  - (b) Upon filing of any application for a Certificate of Appropriateness with the Historic Preservation Commission, the Commission shall approve the application unless:
    - (1) 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;
    - (2) In the case of the 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;
    - (3) 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 section and to the objectives and design criteria of the historic preservation plan for said district;
    - (4) The building or structure is of such architectural or historical

- significance that its demolition would be detrimental to the public interest and contrary to the general welfare of the people of the city and state;
- (5) In the case of a request for the demolition of a deteriorated building or structure, any economic hardship or difficulty claimed by the owner is self-created or is the result of any failure to maintain the property in good repair.
- (c) If the Historic Preservation Commission determines that the proposed changes meet the standards in Section 31.05(2)(b), it shall issue the Certificate of Appropriateness.
- (d) 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 of Appropriateness required for the proposed work.
- (e) Ordinary maintenance or repairs (work in which the sole purpose is to prevent or correct deterioration, decay, or damage) 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.
- (f) Work approved under a Certificate of Appropriateness shall be started within 12 months after the issuance of the certificate, and the work shall conform to the approval conditions of the certificate. The city may inspect the work during and after construction in order to assure compliance. Failure to comply with a Certificate of Appropriateness or failure to obtain a Certificate of Appropriateness 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. No additional work shall be undertaken as long as such stop work order shall continue in effect.
- (g) Should the Historic Preservation Commission fail to issue a Certificate of Appropriateness due to the applicant's failure to conform to the guidelines, the applicant may appeal such decision to the Common Council within 30 days. Appeals should be filed in writing to the city clerk and shall specify the grounds of the appeal. The Common Council may, by a majority vote, reverse or modify the decision of the Commission. In addition, if the Commission fails to issue a Certificate of Appropriateness, the Commission shall, with the cooperation of the applicant, work with the applicant in an attempt to obtain a Certificate of Appropriateness within the guidelines of this ordinance. Demolition denials are subject to the same appeal process by the applicant.
- (h) Any party who is listed as the owner of record of a historic structure or historic site, who can demonstrate to the Commission that by virtue of such designation he/she is unable to find a buyer willing to preserve such landmark, or landmark

site, even though he/she has made reasonable attempts, in good faith, to find and attract such a buyer, may petition the Commission for a rescission of its designation following the filing of such petition with the Commission:

- (1) The owner and the Community Development Department shall work together in good faith with the Commission to locate a buyer for the subject property who is willing to abide by its designation status as a landmark, or landmark site.
- (2) If, at the end of a period not exceeding one year from the date of such petition, no such buyer can be found, and if the owner still desires to obtain such rescission, the Commission shall recommend to the Common Council the designation of the subject property be rescinded. The Common Council may accept, modify, or reject the Commission recommendation.
- (3) Recognition of Historic Structures, Sites and Districts. At such time as a historic structure, site or district has been properly designated, on the local, state or national register, the Historic Preservation Commission, in cooperation with the property owner, may cause to be prepared and erected on such property at city expense, a suitable plaque declaring that such property is a historic structure, site or district.

#### 31.06 PROCEDURES

- (1) Designation of Historic Structures and Historic Sites
  - (a) The Common Council may, on the recommendation of the Historic Preservation Commission after notice and public hearing, designate historic structures and historic sites, or rescind such designation, after application of the criteria in Section 31.04 above. At least 10 days prior to such hearing, the city clerk shall notify the owners of record, as listed in the office of the city assessor, who are owners of property in whole or in part situated within 300 feet of the boundaries of the property affected. Notice of such hearing shall also be published as a Class 1 Notice, under the Wisconsin Statutes.
  - (b) The Common Council 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 committee may conduct an independent investigation into the proposed designation or rescission. Within 10 days after the close of the public hearing, the committee shall make a recommendation to the Common Council which, within 10 days thereafter, may designate the property as either a local historic structure, or a historic site, or rescind the designation. After the designation or rescission has been made, notification shall be sent to the property owner or owners. Notification shall also be given to the building inspector and the city assessor. The city clerk shall cause the designation or rescission to be recorded, at city expense, in the county register of deeds office.
- (2) Creation of a Historic District
  - (a) For preservation purposes, the Historic Preservation Commission may recommend a geographically defined area within the city to be designated by the Common Council as local historic districts and shall prepare a historic

preservation plan for each area. A historic district may be designated for any geographic area of particular historic, architectural or cultural significance to the city, after application of the criteria in Section 31.04 above. Each historic preservation plan prepared for or by the city shall include a cultural and architectural analysis supporting the historic significance of the area, the specific guidelines for development, and a statement of preservation objectives.

(b) Review and Adoption Procedure

- (1) The Common Council shall hold a public hearing when considering the plan for a historic district. Notice of the time, place and purpose of the public hearing shall be sent by the city clerk to the alderperson of the aldermanic district or districts in which the historic district is located, and the owners of record, as listed in the office of the city assessor, who are owners of the property within the proposed historic district or are situated in whole or in part within 200 feet of the boundaries of the proposed historic district. Said notice is to be sent at least 10 days prior to the date of the public hearing. Following the public hearing, the Common Council shall vote to recommend, reject or withhold action on the plan (MC#920)
- (2) The Plan Commission shall review the historic district plan and make a recommendation to the Common Council. The Planning Commission shall make its recommendation on the historic preservation plan within 30 days.
- (3) The Common Council, upon receipt of the recommendations from the Plan Commission shall hold another public hearing, notice to be given as noted in subparagraph (b)(1) above and shall, following the public hearing, 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. (MC#920)

### 31.07 INTERIM CONTROL

No building permit shall be issued by the building inspector for alteration, construction, demolition, or removal of a nominated local historic structure, historic site, or any property or structure within a nominated historic district from the date when the nomination form is first presented at the city clerk's office until the final disposition of the nomination by the Common Council unless such alteration, removal or demolition is authorized by formal resolution of the Common Council as necessary for public health, welfare or safety. In no event shall the delays be for more than 180 days.

### 31.08 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, site or a property in a historic district, the building inspector may order the remedying of these conditions without the approval of the Commission. The building inspector shall promptly notify the Commission of the action being taken. When the emergency conditions do not require demolition, the building inspector shall make every effort to carry out the intent of this ordinance when remedying the emergency

conditions.

#### 31.09 PENALTIES FOR VIOLATIONS

Any person that violates this chapter shall be subject to a penalty as provided in the municipal code.

#### 31.10 SEPARABILITY

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the remainder of this chapter and the application of such provisions to other persons or circumstances shall not be affected thereby.