

## **Ch. 62 Historic Preservation**

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## **ARTICLE I. IN GENERAL**

### **Sec. 62-1. Declaration of policy and definitions.**

- (a) The city council determines that the historic, architectural, archeological, and cultural heritage of the community is among the most important assets of the community; and that the social, economic and physical development of contemporary society threatens to degrade or destroy the remaining vestiges of this heritage. It is therefore declared to be the public policy and in the public interest of the city to engage in a comprehensive program of historic preservation to promote the use and conservation of such property representative of the residential, commercial, and recreational heritage of the community for education, inspiration, pleasure, and enrichment of the citizens of the community.
- (b) The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Adverse effect* means any of the following:

- (1) Physical destruction, damage or alteration of any part of the property which would have a deleterious effect on the historic significance of that property.
- (2) Isolation of a property from or alteration of the character of the property's setting when that character contributes to the property's qualification as a landmark or landmark site.

- (3) Introduction of visual, audible or atmospheric elements that are out of character with a property or alter its setting.
- (4) Neglect of a property resulting in its deterioration or destruction.

Alteration means an intentional physical change in the condition or integrity of the structural elements of a historic property, or in the appearance or condition of the exterior of a historic property and includes the physical destruction of less than a significant portion of a building, structure, or site. The repainting of a previously painted surface is not an alteration.

Building has the meaning given in section 130-6 of these ordinances.

Certificate of Appropriateness means a document issued by the commission in response to an application in accordance with sec. 62-36(10) by or on behalf of an owner of a property that is located within a historic district or that is a landmark, landmark site, or specially designated landmark for permission to maintain, provide protection, reconstruction, rehabilitation, restoration, or make an alteration to such property.

Commission means the historic preservation commission created under this chapter.

Demolition or Demolish means the physical destruction of all, or a significant portion, of a building, structure, or site.

Demolition by neglect means the process of allowing landmarks, landmark sites, specially designated landmarks, or properties within a historic district to decay, deteriorate, become structurally defective, or otherwise fall into disrepair

Demolition permit means a document issued by the commission in response to an application in accordance with sec. 62-36(11) by or on behalf of an owner of a property that is located within a historic district, or that is a landmark, landmark site, or specially designated landmark, for permission to conduct demolition work on such property.

Historic district means an area designated by the city which contains one or more landmarks or landmark sites, or properties contributing to the historical character of such designated area, as well as those abutting parcels which the city determines should fall under the provisions of this chapter to protect the context of the area and to ensure that their appearance and development will be harmonious with such landmarks, landmark sites, or properties contributing to the historical character of the designated area.

Historical marker means the plaque or marker adopted by the commission to identify a specially designated landmark or landmark site.

Historic preservation means the research, protection, restoration and rehabilitation of historic properties.

Historic property means any building, structure, object, district, area or site, whether on or below the surface of land or water, that is significant in the history, prehistory, architecture, archeology or culture of the community, the state, or the nation.

Improvement means any structure, place, landscape, work of art, or other object constituting a physical betterment of real property, or any part of such betterment.

Landmark means any building or structure which is significant in national, state or local history, architecture, archeology, engineering or culture meeting the criteria set forth in sec. 62-2 and which has been designated as a landmark under this chapter.

Landmark site means any parcel of land of historic, geological or archeological significance which meets the criteria set forth in sec. 62-2 of this chapter and has been designated as a landmark site under this chapter; or any parcel of land, or part thereof, on which is situated a landmark.

Local register means the list of designated landmarks, landmark sites, and historic districts created and maintained by the city under this chapter.

Maintain means to keep in good repair.

Protection means treatment of materials through rust removal, caulking, application of paint or water-proofing treatments to previously unpainted or untreated materials, installation of fencing, plywood, and other temporary protective measures.

Reconstruction means reestablishment of a historical feature or execution of a new design that is compatible with the character-defining features of a historic building. The new design should always take into account the size, scale, and material of the historic building itself, and should be clearly differentiated so that a false historical appearance is not created.

Rehabilitation means the process of returning a historic building to good repair and safe condition, and may include interior improvements that are needed to support the exterior of the building, as well as repurposing or adapting the building to a new use.

Restoration means the process of returning a historic building to a previous appearance, preferably through the use of historic photographs, and other physical or documentary evidence. Introduction of hypothetical or conjectural materials should be avoided in restoration.

Specially designated landmark means any landmark or landmark site, or a structure or site contributing to the historical character of a historic district, of such significance that the owner and the commission have entered into an agreement by which the owner has conveyed to the commission a restrictive covenant for a period of years, a historic preservation easement or similar perpetual grant, or has entered into an agreement with the commission that designated features of a historic property may not be altered without the issuance of a certificate of appropriateness.

Stop work order means an order issued by the chairperson of the historic preservation commission, or in the absence of the chairperson, by another member of the commission, requiring the immediate cessation of work being performed contrary to the provisions of this chapter. A stop work order may further require the owner or person in charge of property within a historic district, a landmark, landmark site or specially designated landmark to apply for a certificate of appropriateness, an amended certificate of appropriateness, or a demolition permit.

Structure has the meaning given in sec. 130-6 of these ordinances.

**Sec. 62-2. Criteria for designation of local landmarks, landmark sites and historic districts.**

- (a) A landmark, landmark site or historic district designation may be placed on any natural or improved site or on any area of particular historic, architectural, archeological, or cultural significance, and such designation shall cause the designated property to be placed on the local register. The quality of significance is present in landmarks, landmark sites and historic districts that possess integrity of location, design, setting, materials, workmanship, feeling and association and that satisfy any of the following conditions:
- (1) Association with events that have made a significant contribution to the broad patterns of history.
  - (2) Association with the lives of persons significant in the past.
  - (3) Embodiment of the distinctive characteristics of a type, period or method of construction or that represent the work of a master or that possess high artistic values.
  - (4) Representation of a significant and distinguishable entity whose components lack individual distinction.
  - (5) Yielding, or likely to yield, information important in prehistory or history.
- (b) No cemetery, birthplace or grave of a historical figure, property owned by a religious institution or used for religious purposes, reconstructed historic buildings, property primarily commemorative in nature or property that has achieved significance in the last 50 years may be considered eligible for the local register unless it is an integral part of a historic district that meets the criteria of significance under par. (a) or unless it falls under at least one of the following categories:
- (1) A Religious property deriving primary significance from architectural or artistic distinction or historical importance.
  - (2) A birthplace or grave of a historical figure if there is no appropriate site or building directly associated with his or her productive life in the vicinity of that birthplace or grave.
  - (3) A cemetery which derives its primary significance from the grave of a person of transcendent importance, age, distinctive design features or association with historic events.
  - (4) A reconstructed building when accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan and when no other building or structure with the same association has survived.
  - (5) A property primarily commemorative in intent if design, age, tradition or symbolic value has invested it with its own exceptional significance.
  - (6) A property achieving significance within the past 50 years if it is of exceptional importance.
- (c) The commission may adopt further specific guidelines for such designation in conformance with the provisions of this section.

**Sec. 62-3. Procedure for designation of landmarks, landmark sites and historic districts.**

- (1) Any person may nominate a property as a landmark or landmark site, and may nominate any defined area as a historic district, and the commission may make a nomination on its own motion. Any person may suggest rescission of a previous designation or inclusion of property on the local register. The commission may, after publication of a class 2 notice and a public hearing thereon, recommend the designation of landmarks, landmark sites and historic districts or recommend the rescission of such designation after application of the criteria provided in section 62-2, subject to the following:
  - (a) At least 30 days prior to such hearing, the commission shall notify in writing the owner of record of the property affected, the owner of record of property within 250 feet of the affected property and the occupants of the affected property. The commission shall also notify the city council, plan commission, building inspector and municipal services committee.
  - (b) At such public hearing, the commission may hear lay or expert witnesses, in addition to the persons notified, and may subpoena such witnesses and records as it deems necessary. The commission and persons in interest may be represented by an agent or attorney, and parties in interest may subpoena witnesses and records, may present witnesses and records, and the commission and the parties in interest may cross-examine witnesses. Testimony shall be given by all witnesses under oath or affirmation. An attorney issuing a subpoena on behalf of an interested party shall furnish the commission with a copy when the subpoena is issued. The hearing may be adjourned or continued in the commission's discretion to ensure a satisfactory presentation. The commission shall keep notes of the testimony and shall mark and preserve all exhibits offered throughout the hearing. The commission may, and upon request of a party in interest shall, cause the proceedings to be taken by a stenographer or a recording device, the expenses of which shall be borne by the city.
  - (c) Within 30 days following the completion of the hearing, and the submission of written comments from any party, and briefs of the attorneys, on a schedule to be determined by the commission prior to adjournment of the hearing, the commission shall issue its written decision. The commission may recommend designation of the property as a landmark or landmark site, may recommend that it be included in a historic district or may recommend rescission of such designation. Notice of such recommendation, including the commission's reasons for such recommendation, shall be sent to the property owner of record and to any other persons who appeared at such hearing. Notification shall be given to the city clerk-treasurer, building inspector, city assessor and plan commission.
  - (d) The commission may take official notice of the listing of any parcel or improvement on the Wisconsin state or national register of historic places as a landmark, landmark site or a historic district, and such listing shall establish a rebuttable presumption that such parcel or improvement meets the criteria under Sec. 62-2.

- (e) A rebuttable presumption that a parcel or improvement meets the criteria under Sec. 62-2 shall be established for any parcel or improvement if any person has obtained an income tax credit related to historic preservation of such parcel or improvement.
  - (f) The commission's decision constitutes a recommendation to the city council that the property or district be listed on or removed from the local register, that Historic Conservation Overlay District Zoning be applied to or removed from the subject property, and that the city zoning map be amended accordingly.
- (2) The commission is authorized to designate, by resolution, any city-owned property within the city listed as a landmark or landmark site on the Wisconsin state or national register of historic places as a local landmark or local landmark site, and may rescind such designation by resolution.
  - (3) The commission is authorized to designate, by resolution, any city-owned property within the city that is listed as a historic district on the Wisconsin state or national register of historic places as a local historic district, and may rescind such designation by resolution.
  - (4) Notice of such designation or rescission under subs. (2) and (3) shall be sent to the city clerk-treasurer, building inspector, city assessor, and plan commission. The adoption of such a resolution constitutes a recommendation to the city council that the property or district be listed on the local register, that Historic Conservation Overlay District Zoning be applied to the subject property, and that the city zoning map be amended accordingly.

**Sec. 62-4. Rezoning.**

- (a) A historic district shall be a special overlay district.
- (b) Areas adjacent to or in the vicinity of a historic district, landmark or landmark site, or areas which may be seen from such historic district, landmark or landmark site, may also be recommended to the city council as a special overlay district.
- (c) The provisions of subsecs. 62-36 (10), (11), and (13) are inapplicable to any particular property until the city council has listed the property on the local register.

**Sec. 62-5. Historic district boundaries.**

The historic district boundaries shall be shown on the city zoning map.

**Sec. 62-6. Historic preservation easements.**

- (a) The commission and the owner of any property within a historic district, of a landmark or of a landmark site may at any time following such designation of the subject property enter into an agreement whereby the owner conveys to the commission a historic preservation easement or other perpetual grant in accordance with Wis. Stat. sec. 700.40. The commission may assist the owner in preparing such agreement and related documents in the interest of preserving the landmark or landmark site. The commission shall record such conveyance in the office of the

county register of deeds and shall notify the city assessor of such agreement and the conditions thereof. The commission may furnish a historical marker to denote the significance of the specially designated landmark. The owner shall affix the historical marker to the principal façade of the landmark or other exterior portion thereof in a manner specified by the commission, but the marker shall remain the property of the commission.

- (b) In lieu of such easement or other perpetual grant, or as a substitute therefor, an owner and the commission may agree that designated features of a historic property may not be altered without the issuance of a certificate of appropriateness. If a property owner and predecessors in title have not obtained income tax deductions or credits in reliance on such an easement or perpetual grant, the commission may agree to release and discharge such easement or perpetual grant to avoid an economic hardship to the owner or to facilitate a conveyance of the property.

**Sec. 62-7. Maintenance of historic property.**

- (a) Every person in charge of a landmark or an improvement on a landmark site or in a historic district shall keep in good repair all of the exterior portions of such improvement and all interior portions which, if not so maintained, may cause or tend to cause the exterior portions of such improvement to fall into a state of decay or disrepair. This subsection shall be in addition to all other provisions of law requiring buildings or structures to be well maintained.
- (b) Insofar as it is applicable to a landmark, landmark site or improvement in a historic district, any provision of chapter 18 may be varied or waived on application by the building inspector, provided such variance or waiver does not endanger public health or safety. However, the building inspector may not waive any provision of this chapter.
- (c) The building inspector is authorized to enforce the provisions of this section. Upon written official notice from the building inspector, the owner or other person in control of the property shall repair such decay, disrepair or interior defect to bring the property into compliance with this section.
- (d) Violations of the provisions of this section shall be subject to a minimum forfeiture of two hundred fifty dollars (\$250) and a maximum forfeiture of five hundred dollars (\$500) for each separate violation. A second violation within thirty-six (36) months shall be subject to a minimum forfeiture of five hundred dollars (\$500). A third violation within thirty-six (36) months shall be subject to a minimum forfeiture of one thousand dollars (\$1000). Each and every day during which a violation continues shall be deemed to be a separate offense.
- (e) The owner of a landmark, landmark site, specially designated landmark or property in a historic district may not allow such property to undergo demolition by neglect.
  - (1) If the building inspector believes that a property described in this subsection is undergoing demolition by neglect, the building inspector shall give written notice of that belief to the owner of such property. The building inspector shall give a copy of the notice to the community development director and to the commission.

- (2) Upon receiving a notice under this subsection, the commission shall issue a notice of hearing and hold a public hearing to determine whether the subject property is undergoing demolition by neglect. The commission shall hold the public hearing within ninety (90) days of receiving the notice under this subsection.
- (3) If, after a public hearing, the commission finds that the subject property is undergoing demolition by neglect, it shall report that finding to the owner, to any person who appeared at the hearing and requested notice of the commission's determination, to the city council, the building inspector, and the office of the city attorney. A commission finding of demolition by neglect is prima facie evidence of demolition by neglect for purposes of any administrative or civil court action, and also constitutes a determination that the structure is unlawful and that a public nuisance exists.
- (4) An appeal from a commission finding under this subsection may be taken to the plan commission in accordance with Wis. Stat. sec. 68.12 by the owner of the subject property or by the owners of twenty (20) per cent of the number of parcels within 250 feet of the subject property, as determined by the city clerk-treasurer. A written notice of appeal under this subsection shall be filed with the city clerk-treasurer within thirty (30) days after the commission gives notice of its determination. The notice of appeal shall contain the names and addresses of each petitioner, and shall specify the grounds for appeal. The city-clerk treasurer shall forward the notice of appeal to the plan commission.
- (5) The plan commission shall make a determination on the appeal in accordance with Wis. Stat. secs. 68.10 through 68.12. The plan commission may reverse or modify the determination of the historic preservation commission, with or without conditions, or may remand the matter to the historic preservation commission with or without instructions, if it finds that the determination of the historic preservation commission is contrary to applicable standards under this subsection. An owner of property that is affected by a decision of the plan commission under this section may appeal such decision to the common council. The common council may overturn such decision by a majority vote of the common council.
- (6) If the historic preservation commission finds under this subsection that a property described in this subsection is undergoing demolition by neglect, the building inspector or any adjacent or neighboring property owner who would be specially damaged by such condition may, in addition to other remedies, institute appropriate actions or proceedings to prevent such unlawful maintenance or use, to restrain, correct, or abate such violation, to prevent the occupancy of the subject property, or to prevent any illegal act, conduct, business, or use in or about such property.
- (7) If the historic preservation commission finds under this subsection that a property described under this subsection is undergoing demolition by neglect, the city council may authorize the city to acquire the property under Wis. Stat. sec. 66.1111(2), if necessary through condemnation proceedings under Wis. Stat. ch. 32.

**Sec. 62-8. Conditions dangerous to life, health or property.**

Nothing contained in this chapter shall prohibit the construction, reconstruction, alteration or demolition of any improvement on a landmark site or in a historic district pursuant to order of any governmental agency having jurisdiction or any court judgment to remedy conditions determined to be dangerous to life, health or property. In such case, no approval from the commission shall be required.

**Secs. 62-9--62-30. Reserved.**

**ARTICLE II. HISTORIC PRESERVATION COMMISSION**

**Sec. 62-31. Membership.**

- (a) The commission shall consist of seven members, who shall be appointed, on the third Tuesday in April, by the mayor subject to confirmation by the city council. One member shall be an alderperson.
- (b) Each member shall have demonstrated competence, interest or knowledge in historic preservation. In making appointments, the mayor shall make reasonable efforts to secure members with professional qualifications in the fields of history, prehistorical archeology, historical archeology, and architectural history.

**Sec. 62-32. Term of members.**

The term of each member of the commission other than the alderperson member shall be for two years on a staggered basis. The alderperson's term shall be for one year. The terms shall expire on the third Tuesday in April of the appropriate year.

**Sec. 62-33. Vacancies.**

Vacancies on the commission shall be filled for the unexpired term in the same manner as appointments for the full term.

**Sec. 62-34. Officers; rules of procedure.**

The commission shall elect a chairperson, vice-chairperson and secretary-treasurer and shall adopt rules and regulations for its government not inconsistent with the provisions of this chapter.

**Sec. 62-35. Compensation of members.**

The members of the commission shall be compensated as determined by the city council from time to time.

**Sec. 62-36. Powers and duties.**

The commission's powers and duties shall be to:

- (1) Promote public education, interest and support for the preservation and enhancement of such landmarks, landmark sites and historic districts.
- (2) Seek public participation in the local historic preservation program as a whole, and in the process of evaluating properties for inclusion in the local, Wisconsin state, and national registers.

- (3) Develop appropriate criteria and standards for identifying and evaluating neighborhoods, places, structures and improvements which might be classified as landmarks, landmark sites, historic districts or specially designated landmarks.
- (4) Recommend to the city council the designation of local landmarks, landmark sites and historic districts on the local register.
- (5) Compile a list of landmarks and landmark sites, and of properties that contribute to the historical character of a historic district. Such properties shall be eligible for specially designated landmark status. The commission may enter into and enforce agreements with owners of such properties under Sec. 62-6, and may enforce restrictive covenants pertaining to specially designated landmarks, regardless of the date of creation.
- (6) Cooperate with federal, state and local agencies in pursuing the objective of historic preservation. The commission may adopt procedures to assist the city in meeting its reporting requirements under Wis. Stat. sec. 66.111(4) and Wis. Stat. ch. 44 pertaining to potential effects on city-owned property that is listed on the local register, the Wisconsin state register, or the national register of historic places.
- (7) Develop and recommend ordinances, legislation and programs and otherwise provide information on historic preservation to the city council.
- (8) Take all steps necessary, including the taking and collecting of photographs, drawings, descriptions, recorded interviews, written data and documentation, to permanently record the origin, development, use and historical significance of each landmark, landmark site or historic district.
- (9) Review requests for conditional uses, as defined in section 130-6, within a historic district, and make recommendations thereon to the plan commission.
- (10) Review, subject to this subsection and subsection (11) of this section, applications for building or demolition permits; and work on a voluntary basis with the owners of landmarks, landmark sites or structures within a historic district, advising them on the benefits, problems and techniques of preservation and encouraging their participation in preservation activities.
  - (a) Regardless of the amount of money expected to be expended on the project, no building permit shall be issued for new construction of any kind or extent, for a fence, a deck, or for a repair, alteration, preservation, rehabilitation, restoration, or reconstruction of the physical setting or the exterior of a structure within a historic district, or of a property designated as a local landmark, local landmark site or specially designated landmark, unless the commission has first issued a certificate of appropriateness.
  - (b) Applications for a certificate of appropriateness shall be made on forms furnished by the city clerk-treasurer and shall be considered at a public hearing at the next regularly-scheduled monthly meeting of the commission for which due public notice of the application can be provided. A special meeting may be held at the call of the chairperson, or upon the request of any two members of the commission, but an applicant for consideration of an application at a special meeting shall be responsible for the costs thereof, in accordance with city policies and procedures.
  - (c) The commission may require applicants to furnish information, including construction drawings, specifications, maps, photographs, samples, catalog cuts,

- and descriptions of the proposed work and materials, to permit evaluation of the historical appropriateness of the proposal. The commission will apply the standards of the United States Secretary of Interior for preservation, rehabilitation, restoration, and reconstruction of historic buildings and sites, as appropriate to each proposal considered by it, and the commission will be assisted in application of the standards by the guidelines of the United States Secretary of the Interior then in effect.
- (d) In judging an application, the commission will evaluate the evidence and statements submitted by or on behalf of the applicant, and may consider evidence and opinions from other sources it deems to be trustworthy and relevant. The commission may seek lay and expert evidence in oral or written form, may request reports and recommendations from city staff, and may rely on the training, education, and experience of the commission members.
  - (e) The applicant for a certificate of appropriateness or for a demolition permit shall have the burden of production of evidence and the burden of persuasion with respect to its application.
  - (f) The commission shall consider whether the proposed work would have an adverse effect on the immediate site of the work, on adjacent properties, or on the entire district, as the commission believes to be appropriate.
  - (g) The commission will issue its decision in writing on each application for a certificate of appropriateness or for a demolition permit at or before the time of its next regular monthly meeting following the completion of the hearing on the application. The decision may include findings of fact and recommendations to the applicant, may approve or disapprove the application in whole or in part, and may condition approval on specified actions or inactions. If the commission approves an application, it may communicate such approval immediately by endorsement on the application.
  - (h) In its discretion, the commission may adjourn hearings on applications where it deems an application to be so incomplete or insufficient that the commission cannot readily understand the scope or nature of the proposed project, or where additional facts or opinions, including but not limited to statements of the owner, are believed to be needed to reach an informed decision.
  - (i) Decisions of the commission shall be by vote of the majority of the commission members present and voting on the matter. The chairperson of the commission shall have the same right to vote as any other member.
  - (j) A member of the commission who has a personal, family, business or financial interest in the subject of the application will not participate in the deliberations or in the vote, and will withdraw from the meeting room while such matter is being considered.
  - (k) Notwithstanding the other provisions of this subsection (10), the commission may delegate to the community development director the authority to approve an application for a certificate of appropriateness without a hearing where the proposed work entails reroofing with materials of the same kind as those replaced, the routine repair of damaged or deteriorated work with materials of the same kind and adhering to the existing design, and other similar, routine work. The commission may also delegate to the community development director the authority to determine whether particular work complies with a conditional

approval. The commission may issue directives to the community development director from time to time to provide guidance in the approval of routine work. In addition, the building inspector is authorized to issue a building permit without an application for a certificate of appropriateness where the request is to make emergency repairs, due to forces outside the control of the owner or occupant, and to ameliorate further damage.

- (l) (1) Once a certificate of appropriateness has been issued, the applicant and its agents may not deviate from the work approved by the commission without making an application to the commission for an amendment of the certificate of appropriateness. An application for an amendment shall be considered by the commission in the same manner as an original application.

(2) A person aggrieved by an oral decision of the commission, or by a decision that does not state in writing the reasons for the decision, may request a written statement of the decision and the reasons for the decision by submitting a written request therefor with the city clerk-treasurer, addressed to the commission, within 10 days of notice of such decision. The commission shall thereupon reduce the decision and reasons for its decision to writing and mail or deliver them to the person making the request. The reasons shall be dated and shall inform the person requesting them that a review by the commission of its initial determination may be requested by filing a written request for review with the city clerk-treasurer, addressed to the commission, within 30 days of notice to the person of the commission's initial decision.

(3) A person aggrieved by a written or oral decision of the commission may have such decision reviewed by the commission by delivering or mailing to the city clerk-treasurer, addressed to the commission, a written request for review, which shall state the ground or grounds on which the commission's initial decision should be revised or reversed.

(4) The commission shall review the initial determination within 15 days of receipt of a request for review. The time for review may be extended by agreement with the person aggrieved.

(4) The person aggrieved may file with the request for review or within the time agreed with the commission written evidence and argument in support of the person's position with respect to the initial determination.

(5) The commission may affirm, reverse, or modify the initial determination and shall mail or deliver to the person aggrieved a copy of the commission's decision on review, which shall state the reasons for such decision. The decision shall advise the person aggrieved that the decision on review may be appealed to the plan commission, by mailing to or filing a written notice of appeal with the city clerk-treasurer, addressed to the plan commission, within 30 days of notice of the decision on review.

(6) The plan commission has the power and authority to hear and determine appeals of decisions on review of the historic preservation commission under this section. Such appellate review shall be conducted in accordance with Wis. Stat. secs. 68.10 through 68.12.

(7) An owner of property that is affected by a decision of the plan commission under this section may appeal such decision to the common council. The

common council may overturn such decision by a majority vote of the common council.

- (11) Make recommendations or determinations on the demolition, partially or in total, of specially designated landmarks or structures located therein in accordance with the terms of a preservation easement or restrictive covenant pertaining to the property. No permit to demolish all or part of a landmark, landmark site, or structure within a historic district shall be granted by the building inspector except as follows:
  - (a) No owner or person in charge of a landmark, landmark site, or improvement in a historic district shall be granted a permit to demolish, partially or in total, such property without the written approval of the commission.
  - (b) Upon the filing of an application with the commission, the commission shall determine whether the proposed change would destroy or adversely affect the historical features of the landmark, landmark site or historic district property in accordance with the applicable provisions of subsection (10) of this section.
  - (c) If the commission determines the landmark, landmark site or property within a historic district would be adversely affected by the proposed change, it may withhold its consent to the granting of the permit. The commission shall state in writing the reasons for withholding consent and mail them to the applicant.
  - (d) Prior to demolition, the commission shall be afforded the opportunity to enter the property to document, by photography, measurements, and otherwise, any historical feature or resource therein. Such opportunity may be considered as part of a plan of mitigation.
  - (e) A person aggrieved by a decision of the historic preservation commission with respect to the granting or denial of a demolition permit may appeal to the plan commission as provided in subsection (10) I of this section.
  - (f) An owner of property that is affected by a decision of the plan commission under this section may appeal such decision to the common council. The common council may overturn such decision by a majority vote of the common council.
- (12) Rescind designation of landmarks, landmark sites or historic districts.
- (13) Issue stop work orders to the owner or to the person in charge of a landmark, landmark site, specially designated landmark, or property within a historic district in the event work is being done:
  - (a) Without the issuance of a certificate of appropriateness;
  - (b) Beyond the scope of an issued certificate of appropriateness;
  - (c) Contrary to a limitation or condition imposed in connection with the issuance of a certificate of appropriateness;
  - (d) Contrary to a term or condition of a historic preservation easement or restrictive covenant;
  - (e) Without the issuance of a demolition permit; or
  - (f) Contrary to a limitation or condition imposed in connection with the issuance of a demolition permit;

- (14) Acquire a fee or lesser interest, including preservation easements, in historic properties by donation, bequest, purchase, or exchange.
- (15) Designate appropriate markers for specially designated landmarks and historic districts.
- (16) Accept or raise funds from public and private sources.
- (17) Make an annual report to the city and to the state historic preservation officer regarding its activities.
- (18) Prepare and revise a historic preservation plan for the city.
- (19) Make recommendations to the zoning administrator respecting signs proposed to be located on a landmark or landmark site or within a historic district.
- (20) Apply for and administer Certified Local Government subgrants for historic preservation projects and programs.
- (21) Engage consultants for the purpose of conducting historical, archeological, and architectural studies, surveys or inventories of properties, and for the purpose of preparing nominations of resources to the local, Wisconsin state and national registers of historic places.
- (22) Adopt and publicize residential and commercial design guidelines.
- (23) Prepare, publish and distribute guide books, maps, tour itineraries, and similar materials in written and electronic form to inform residents and visitors about the community's historical, archeological and architectural resources.
- (24) Provide funds for purchase of resource materials or implementation of educational programs on historic preservation topics by local schools, museums, and libraries.
- (25) Take such actions as are recommended by the state historic preservation officer to obtain and retain status as a Certified Local Government.
- (26) Participate in professional organizations devoted to the enhancement of administration of historic preservation review activities, and support commission members in obtaining training and education.
- (27) Adopt procedures for considering the economic hardship of applicants for certificates of appropriateness and demolition permits, provided that self-inflicted damage or harm, and deterioration due to failure to maintain property in the manner required by sec. 62-7 shall not be grounds for a finding of economic hardship.
- (28) If the Historic Preservation Commission is satisfied that an economic hardship exists in a particular case, it may excuse the owner and/or parties in interest from meeting ordinance provisions that otherwise would apply to an application for a Certificate of Appropriateness, to a Stop Order, or to another enforcement action.

## **Appendix I.**

### **Cross-Referenced Municipal Ordinances**

#### **Sec. 130-6 Definitions.**

Building means any structure used, designed or intended for the protection, shelter, enclosure or support of persons, animals or property. The term "building" also includes any part thereof.

Structure means anything constructed or erected having location on the ground. The term "structure" also includes any part thereof.

### **Referenced Wisconsin Statutes**

Wis. Stat. ch. 44; Wis. Stat. secs. 66.111(2), 68.10-68.12, 700.40.

## **Appendix II.**

### **Standards of the United States Secretary of the Interior for preservation, rehabilitation, restoration, and reconstruction of historic buildings and sites**

- (1) 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.
- (2) 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.
- (3) 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.
- (4) Most properties change over time. Those changes that have acquired historical significance in their own right shall be retained and preserved.
- (5) Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.
- (6) Deteriorated historical 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 in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
- (7) Chemical or physical treatments, such as sandblasting, that cause damage to historical materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

- (8) Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
- (9) New additions, 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 historical integrity of the property and its environment.
- (10) New additions and adjacent or 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.

### **Appendix III.**

#### **Procedures for the Evansville Historic Preservation Commission in consideration of effects on historic properties owned by the City of Evansville**

The following procedures are approved by the Evansville Historic Preservation Commission pursuant to its authority under sec. 62-34 of the Evansville Municipal Code to adopt rules and regulations for its governance, and pursuant to its powers under secs. 62-36 (5) and (6) to cooperate with federal, state, and local agencies in pursuing the objective of historic preservation, and to develop and recommend ordinances, legislation, and programs and otherwise provide information on historic preservation to the city council.

**1-1 Applicability.** These procedures apply to any proposed acquisition, ownership, use, or disposition within the meaning of Wis. Stat. sec. 66.1111 by the City of Evansville of any “historic property” within the meaning of Wis. Stat. sec. 44.31 (3). These procedures also apply to any proposal that potentially would have an “adverse effect” within the meaning of Wis. Stat. sec. 44.31 (1) upon historic property owned by the City of Evansville.

**1-2 Submission of proposals.** In any case in which these procedures apply, the proponent of the activity shall furnish the Commission with the following information:

- (1) The name of the board, department, agency, or officer of the City of Evansville that is undertaking or responsible for the project.
- (2) The contact person and contact information.
- (3) The project street address or project location (including Parcel Number or Legal Description).
- (4) The project name.

- (5) The name of the property or historic district affected (as shown on the Wisconsin State or National Register of Historic Places, or as shown on the Evansville List of Local Landmarks).
- (6) A statement whether the project will change, replace, augment, add to, diminish, or otherwise alter the physical properties of the listed property itself or its setting, and whether such impact is perceived to be positive or negative.
- (7) A statement detailing the extent to which the project will constitute a ground-disturbing activity, a material-affecting activity, a setting change, or an acquisition or transfer of an interest in real estate or in personal property.
- (8) A project narrative description including an activity summary, construction drawings and specifications, current photographs (and historic photographs as available) of the affected property in general and of the specific project location in particular, a statement of the problem or needs that are addressed by the project, the options the proponent has considered, and the option the proponent has chosen to pursue, together with a cost assessment and comparison of costs of the options considered.
- (9) A map showing the space within which the project will have an immediate impact, and the space within which there may be collateral/secondary impact. (A U.S.G.S. 7.5 Minute Topographic Quadrangle is preferred, with the Area of Potential Effect identified; additional maps such as plat or GIS maps may also be submitted to assist the State Historic Preservation Officer in identifying the project location.)

**1-3 Consideration of proposals.** To be considered by the Commission at a regularly-scheduled meeting, proposals conforming to the requirements of sec. 1-2 of these procedures must be submitted to the City Clerk at least seven (7) days prior to such meeting. The Chair of the Commission has discretion to schedule a special meeting to consider the proposal, provided the proposal is filed at least seven (7) days before the special meeting, and the proponent agrees to bear the cost of the special meeting.

**1-4 Findings and recommendations of the Commission.** The Commission will make an assessment of the proposal, and may make findings of fact based upon the submission and upon such other sources of information it may consider to be reliable or helpful, including the knowledge and expertise of the Commissioners. The Commission may adjourn consideration or action to a future meeting to obtain additional input or clarification. The Commission may make a recommendation about the project to the proponent, to the city council, to the State Historic Preservation Officer, or to all of them.

**Comment:** The submissions required by section 1-2 of these procedures are needed to allow the City of Evansville to prepare a Request for State Historic Preservation Officer Review and Comment on a Local Unit of Government Action.

## Appendix IV.

### **Procedures for the Evansville Historic Preservation Commission in consideration of claims of economic hardship**

The following procedures are approved by the Evansville Historic Preservation Commission in claims of economic hardship, pursuant to its authority under sec. 62-34 of the Evansville Municipal Code to adopt rules and regulations for its governance.

**2-1. Burden of proof.** The burden of production of evidence, and the burden of persuasion, is on the party claiming economic hardship.

**2-2. Relevancy.**

The following factors will be considered in determining whether an economic hardship exists:

- (1) The nature of ownership of the property (individual, business entity, or non-profit) or legal possession, custody, or control.
- (2) Financial resources of the owner and/or parties in interest.
- (3) Cost of repairs that would be consistent with the Standards and Guidelines of the Secretary of the Department of the Interior for the Rehabilitation of Historic Properties
- (4) Cost of proposed alternative repairs or rehabilitation efforts.
- (5) Assessed value and estimated fair market value of the land and improvements.
- (6) Any appraisal of the property within the last two (2) years.
- (7) Real estate taxes and special assessments for the last two (2) years.
- (8) Amount paid for the property, date of purchase, and party from whom purchased, including a description of the relationship between the owner and the seller, or other means of acquisition, such as by gift or inheritance.
- (9) Any appraisal performed at the time of acquisition by the current owner,
- (10) Annual debt service, if any, for the past two (2) years.
- (11) Available financial incentives, including grant and loan programs.
- (12) Efforts to find alternative uses.
- (13) Efforts to rent or sell the property.
- (14) For income-producing property, annual gross income from the property for the previous two (2) years, itemized operating and maintenance expenses for the previous two (2) years, and annual cash flow for the previous two (2) years.
- (15) Whether or not the owner or other party in possession or control of the property has permitted it to suffer deterioration, and the extent and nature of such deterioration.
- (16) Whether the circumstances creating the claimed hardship were within or outside the control of the owner or party in interest.

(Code 1986, § 1.145(3), Ord. 2012-21, Ord. 2015-02)