

Chapter 38 – HISTORICAL PRESERVATION

Footnotes:

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Cross reference – Buildings and building regulations, ch. 10; utilities, ch. 74, zoning, ch. 78.

ARTICLE I. – IN GENERAL

Secs. 38-1—38-30. – Reserved.

ARTICLE II. – LANDMARKS PRESERVATION COMMISSION

8-31. - Intent.

The protection, enhancement, perpetuation and use of improvements and districts of special character or historical interest is a public necessity required in the interest of the health, prosperity, safety and welfare of the people of the city. This article is intended to:

- (1) Accomplish the protection, enhancement and perpetuation of such improvements and districts which reflect elements of the city's cultural, social, economic, political and architectural history.
- (2) Safeguard the city's historic and cultural heritage, as embodied in our landmarks and historic districts.
- (3) Stabilize and improve property values.
- (4) Foster civic pride in the beauty and accomplishments of the past.
- (5) Protect and enhance the city's attractions to residents, tourists and visitors.
- (6) Support the business, industry and economy of the city.
- (7) Promote the use of landmarks and historic districts for the education, aesthetic pleasure and welfare of the city's people.

(Code 1986, § 12.135(1))

Sec. 38-32. - Definitions.

As used in this article, unless the context clearly requires otherwise, the words defined in this section have the following meanings:

Alteration is any construction on or change to the exterior of a building, structure, object, or site including, but not limited to, the changing of foundation, wall or roofing and the changing, eliminating or adding of doors, windows, steps, railings, porches, balconies, signs or other ornamentation, new construction or relocation of any property, structure or object, or any part of a property, structure or object. Ordinary maintenance and repairs shall not be considered an alteration.

Certificate of appropriateness (COA) is a document that describes exterior repair or alteration to a landmark property or interior repair or alteration that affects an exterior feature. Approval of the COA by the landmarks commission is required prior to obtaining a building permit and commencement of work.

Commission means the landmarks preservation commission created by this article.

Contributing property is any building, structure or object which adds to the historical integrity or architectural qualities that make a historic district, listed locally or federally, significant.

Demolition is any act that destroys in whole or in part a building, structure, object or site.

Historic district (local) means an area designated by the commission which contains one or more landmarks or landmark sites, as well as those abutting improvement parcels which the commission determines should fall within the provisions of this article to ensure that their appearance and development is harmonious with the abutting landmarks or landmark sites.

Historic downtown design guidelines guide the renovation and rehabilitation of commercial buildings on Main Street.

Improvement means any building, structure, landscape feature, work of art or other object which is all or part of any physical betterment of real property.

Landmark means an improvement which has a special character or historic interest in showing the development, heritage or cultural character of the city, state or nation which has been designated as a landmark under this article. All mention of landmark within this text is meant to mean "local landmark."

Landmark site means a parcel of land having historic significance due to its value in tracing the prehistoric activities of Native Americans or is the location of an historic event.

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Ordinary maintenance and repairs is work that corrects any deterioration or damage to a building or structure in order to restore it to its condition prior to the deterioration or damage. The work does not involve a change in the design, material, or outer appearance of the building or structure.

Structure means any building or improvement attached to land (see improvement).

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(Code 1986, § 12.135(2); Ord. No. 0-2-2015, 7-14-015)

Cross reference—Definitions generally, § 1-2.

Sec. 38-33. - Composition and terms.

The commission shall be composed of seven persons competent and informed in the historical, architectural and cultural traditions of the city, to be appointed by the mayor subject to city council confirmation by majority vote. All commission members may be appointed for three years as terms expire. Commission members may be appointed to successive terms. In addition, the zoning administrator shall be an ad hoc member of the commission and shall not be entitled to a vote. If any vacancy occurs, the mayor shall appoint a person subject to the city council confirmation for the unexpired term. The commission may suggest a candidate to the mayor for appointment. No compensation shall be paid to commission members except for expenses necessary in carrying out their duties. The commission shall annually select from its members a chair, vice-chair and secretary and shall fill vacancies in such offices.

(Code 1986, § 12.135(3); Ord. No. 0-2-2015, 7-14-2015)

Sec. 38-34. - Landmark and landmark site designation criteria.

- (a) The commission shall consider the following criteria in determining whether or not to recommend that the city council designate an improvement or improvement parcel as a landmark or landmark site:
 - (1) Whether it exemplifies or reflects the cultural, political, economic or social history of the city, state or nation.
 - (2) Whether it is identified with important historic or prehistoric persons or events in community, state or national history.
 - (3) Whether it embodies distinguishing characteristics or an architectural type specimen, valuable for a study of a period, style, construction method or indigenous materials or craftsmanship.

- (4) Whether it is representative of the notable work of a master builder, engineer or architect.
 - (5) Whether it is a unique and irreplaceable asset to its neighborhood and the city.
 - (6) Whether it provides an example of the physical surroundings in which past generations lived.
- (b) The commission may adopt specific written guidelines for designation of landmarks, landmark sites and historic districts providing such conform to the provisions of this article.

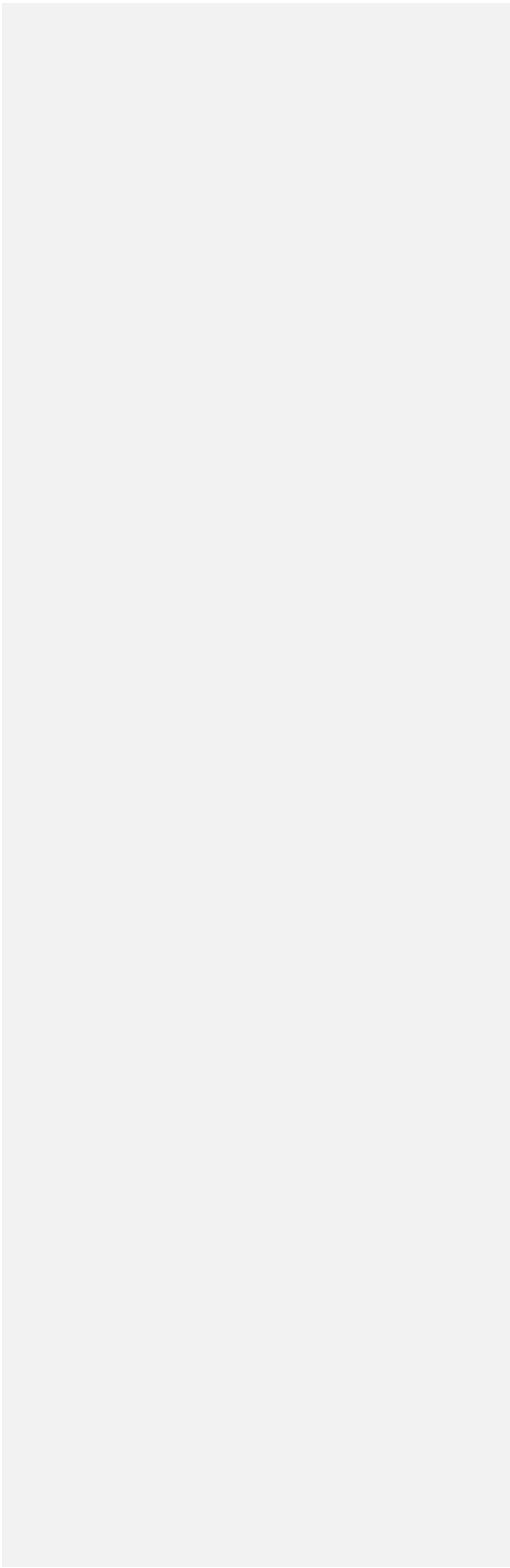
(Code 1986, § 12.135(4))

Sec. 38-35. - Powers and duties.

- (a) The commission may, subject to section 38-36, recommend that the city council designate landmarks, landmark sites and historic districts within the city, based upon the criteria of section 38-34. Once so designated, such landmarks, landmark sites and historic districts shall be subject to all the provisions of this article.
- (b) The commission may regulate, approve or deny proposed changes or alterations to landmark properties in accordance with section 38-36.
- (c) The commission shall cooperate with the state liaison officer and the governor's liaison committee for the National Register of Historic Places of the United States National Park Service in trying to include city landmarks or landmark sites as national landmarks or landmark sites in the National Register of Historic Places.
- (d) The commission shall work for the continuing education of the citizens of the city about the historic heritage of the city.
- (e) The commission shall actively work for the passage of legislation which would permit the granting of full or partial tax exemptions to properties designated under this article in order to encourage owners to assist in carrying out the intent of this article.
- (f) The commission may, as it deems advisable, solicit and receive funds for the purpose of landmarks preservation in the city. Any funds so received shall be placed in a special city account for such purpose.

(Code 1986, § 12.135(5); Ord. No. 0-2-2015, 7-14-2015)

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Sec. 38-36. - Regulation of construction and alteration.

~~(a)~~ Any person filing an application for a building permit involving property which has been designated as a landmark or landmark site shall also file such application in the form of a certificate of appropriateness (COA) with the commission, for approval.

~~(e)~~(a) No person shall alter, reconstruct or permit any alteration or reconstruction affecting the exterior of any landmark, ~~or~~ landmark site or property in a local historic district unless the commission has approved a certificate of appropriateness ("COA") for such work and unless so approved, the building inspector shall not issue a building permit for such work.

~~(d)~~(b) Upon the filing of an application, the commission shall determine whether:

- (1) The proposed work would not destroy or affect in a deleterious way any important feature of the landmark, ~~or~~ landmark site or local historic district; and
- (2) The proposed work is appropriate according to the Secretary of the Interior's Standards for the Treatment of Historic Properties; and
- (3) The exterior of any proposed improvement will be compatible with the exterior appearance and character of neighboring properties.

~~(e)~~(c) If the commission agrees with all the statements in subsection (c) of this section, it shall approve the work and issue a COA. Its decision shall be made within 60 days of filing. If the commission decides any statements in the negative, it shall inform the building inspector to deny issuance of the permit. DenialReview of a permit may be appealed~~denial of permits shall lie~~ to the city council. ~~pursuant to chapter 2, article V, and [Wis. Stats.]~~ In addition, if the commission denies~~fails to approve~~ an application, it shall, at the request of the applicant, cooperate and work with the applicant in an attempt to obtain approval within the guidelines of this article.

(Code 1986, § 12.135(6); Ord. No. 0-20-2015, 7-14-2015)

Cross reference— Buildings and building regulations, ch. 10.

Sec. 38-37. - Regulation of demolition.

(a) Except as otherwise expressly provided herein, no~~No~~ person shall demolish all or part of a landmark, ~~or~~ improvement on a landmark site, or any building or structure in a local historic district, unless the commission has approved such work. Unless the commission has approved the work, the building inspector shall not issue a building permit for such work. This section shall not apply to the demolition of a building or structure that has been ordered razed by a court of competent jurisdiction pursuant to Wis. Stat. § 66.0413(2).

(b) When a person applies for a permit to demolish all or part of a landmark or improvement on a landmark site~~such property~~, such application shall also be filed with the commission.

(c) A demolition application under this section shall not be approved unless the applicant demonstrates either of the following:

(1) (i) The physical characteristics of the building or improvement have changed since the landmark designation was made, and (ii) the change has caused the structure to no longer have the physical integrity needed to embody the physical characteristics that led to the landmark designation, and (iii) the change was not caused by a current or prior owner's failure to maintain the building or structure; or

(2) A denial of the permit will result in a taking of the owner's property without just compensation in violation of the Constitution of the State of Wisconsin or the Constitution of the United States of America.

~~(e)(d)~~ If the commission has not approved or denied the application within 90 days after the application has been filed with the City, the commission shall be deemed to have approved the application. Denial of a demolition permit may be appealed to the city council, which shall base its decision on the standards in Section 38-37 (c) above. Upon the filing of an application, the commission may refuse to approve the work for up to ten months from the date of filing, during which time the commission and the applicant shall undertake serious, continuing discussions to try to find a method to save such property. During such time, the applicant and the commission shall cooperate to try to avoid demolition of the property. At the end of the ten months, if no mutually agreeable method of saving the property bearing a reasonable prospect of eventual success is underway, or if no formal application for funds from any governmental unit or nonprofit organization to preserve the property is pending, the commission shall inform the building inspector to deny issuance of the permit. Appeal of the denial of the demolition permit shall go to the city council pursuant to chapter 2, article V, and Wis. Stats.

~~(d)(c)~~ The commission shall be informed of all demolition permit requests for any property listed in the National Register of Historic Places.

(Code 1986, § 12.135(7); Ord. No. 0-2-2015, 7-14-2015)

Cross reference— Buildings and building regulations, ch. 10.

Sec. 38-38. - Recognition of landmarks, landmark sites and historic districts.

After a landmark, landmark site or historic district has been designated in accordance with sections 38-34 and 38-36, the commission shall cause to be prepared and erected on such property at city expense suitable plaques or signs recognizing the landmark. Such plaques shall

be placed for ease of pedestrian visibility. The plaques shall contain all information deemed appropriate for the landmark by the commission.

(Code 1986, § 12.135(8))

Sec. 38-39. - Rescission of landmark designation.

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- (a) Designation may be rescinded upon petition to the commission and compliance with the procedures as follows:
 - (1) Petitions for rescission may be submitted to the landmarks commission for consideration and public hearing.
 - (2) When considering rescission of a landmark designation, the commission shall consider whether the landmark or district no longer meets the criteria for designation.
 - (3) The commission shall make a recommendation to the city council including a report regarding whether the landmark or district does or does not continue to retain significance and integrity.
 - (4) The council shall make its decision only after the above procedures have been followed.
 - (5) The council shall rescind a designation only upon a finding based on the commission recommendations that the designated landmark or district no longer meets the criteria in accordance with section 38-34.
- (b) In the event of rescission, the commission shall notify the city clerk, building inspector and assessor of the rescission and shall cause the rescission to be recorded at its expense in the county register of deeds.
- (c) Following any such rescission, the commission may not redesignate the subject property as a landmark or landmark site for at least five years from the date of rescission.

(Code 1986, § 12.135(9); Ord. No. 0-2-2015, 7-14-2015)

Sec. 38-40. - Procedures.

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- (a) Before establishing any landmark or landmark site, the commission shall hold a public hearing thereon after giving at least ten days written notice of such hearing and appeal procedures to the owners and occupants of the affected premises and the

owners of land located within 200 feet of the affected property. Notice of such hearing shall also be published as a class 1 notice under the statute. The commission shall also notify the building inspector and the public works committee of the hearing and they may respond to the commission's proposed designation in writing or by appearance. At any time after the closing of the public hearing, the commission may recommend that the city council designate the affected property as either a landmark or landmark site. Upon the request of any aldermember or the owner of a landmark or landmark site, a public hearing shall be held by the city council before it votes on whether or not to establish the landmark or landmark site. Notice of such designation shall be given to the property owner, the city clerk, building inspector, assessor and the county register of deeds.

- (b) The owner of any landmark or landmark site may, following the designation of the property, enter into voluntary restrictive covenants on the property with the commission. The commission may assist the owner in preparing the covenants in the interest of preserving the landmark or landmark site and the owner shall record such covenant in the county register of deeds and notify the assessor thereof.

(Code 1986, § 12.135(10))

Sec. 38-41. - Historic districts.

The commission may select geographically defined areas for recommendation for designation by the city council as historic districts and shall prepare, in ordinance form, an historic preservation and land usage plan for each such area. The designation criteria for such historic district shall be in accordance with section 38-36. Each historic preservation and land usage plan shall contain specific guidelines for development, a list of appropriate and banned land usage and a statement of preservation objectives within the district.

- (a) The commission shall hold a public hearing when considering the plan for a historic district. Notice of the time, place and purpose of such hearing shall be given by publication as a class 2 notice under statute in the official city newspaper. Such notice shall also be sent by the city clerk to the aldermember of the aldermanic ward in which the historic district is located as well as the owners of record, as listed by the assessor, of property located at least in part within the district at least ten days prior to the date of such hearing. Following the public hearing, the commission shall vote to recommend, reject or withhold action on the plan. The recommendation, if any, shall be forwarded to the city council for its action.
- (b) Upon receipt of such recommendation, the city council may by majority vote either designate or reject the historic district. Designation of the historic district shall constitute adoption of the district in ordinance form.

- (c) Every person in charge of any landmark, landmark site or improvement in a historic district shall conform to the guidelines for development of land usage for property within the district as well as any regulations developed under this article.
- (d) Following the designation of the historic district, the city council shall direct the department of planning and development staff to modify the official zoning map to reflect this change.
- ~~(e) To the extent to which such is reasonably possible, the commission is empowered to invoke the provisions of sections 38-36 and 38-37, giving due consideration to the larger area of land involved and the degree to which the proposed change would materially affect the preservation objectives and design criteria of the historic preservation plan as duly adopted by the city council.~~

(Code 1986, § 12.135(11); Ord. No. 0-2-2015, 7-14-2015)

Cross reference— Districts and areas, § 78-61 et seq.

Sec. 38-42. - Maintenance of improvement on landmark site or within historic district.

Every person in charge of an improvement on a landmark site or within a historic district shall keep in good repair all of the exterior portions of such improvement to prevent it from becoming damaged or falling into a state of disrepair. This section shall be in addition to all other provisions of law relating to a premises repair.

(Code 1986, § 12.135(12))

Sec. 38-43. - Penalties for violations.

- (a) Failure to perform any action required by the article or performance of any act prohibited by the article shall constitute a violation. Any persons violating any provision of this article shall be subject to a fine of up to \$500.00 for each separate violation. Each and every day during which a violation continues shall be deemed to be a separate offense. Notice of violations shall be issued by the building inspector.
- (b) Additionally, the commission may seek reversal of prohibited work without regard to economic hardship. Procedures for the reversal of prohibited work shall be outlined in a COA approved by the commission.

(Ord. No. 0-2-2015, 7-14-2015)

Sec. 38-44. - Commission records.

The city staff person for the commission shall cause to be prepared permanent public records of all actions taken by the commission in connection with landmarks, landmark sites and historic districts. Such records shall be maintained in such form as to permit ease of access and the city staff person shall provide guidance for any person seeking to search its records. The commission secretary is responsible for taking minutes and maintaining records if the city staff person is unable to attend a commission meeting.

(Code 1986, § 12.135(13); Ord. No. 0-2-2015, 7-14-2015)

Editor's note— Ord. No. 0-2-2015, adopted July 14, 2015, renumbered § 38-43 as § 38-44 to read as set out herein.