

## CHAPTER 17.705

### HISTORIC PRESERVATION COMMISSION

**(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 or special architectural, archeological, or historic interest or value are public necessities and are required in the interest of the health, prosperity, safety, and welfare of the people and the community. The purpose of this section is to:

- (a) Effect and accomplish the protection, enhancement, and preservation of such structures and sites which represent or reflect elements of the City of Oconomowoc's cultural, social, economic, political, and architectural history.
- (b) Safeguard the City of Oconomowoc's historic, prehistoric, and cultural heritage, as embodied and reflected in such historic structures and sites.
- (c) Stabilize and improve property values and enhance the visual and aesthetic character of the City of Oconomowoc.
- (d) Protect and enhance the City of Oconomowoc's attractions to residents, tourists, and visitors, and serve as a support and stimulus to business and industry.

**(2) Definitions:** The definitions shall be as follows:

- (a) *Commission* means the Historic Preservation Commission created under this section.
- (b) *Improvement* means any building, structure, or work of art (not including painted murals). For the purposes of this ordinance, landscaping shall be excluded from the processes outlined in this section and shall not be considered improvements under this definition.
- (c) *Certificate of Appropriateness* means the certificate issued by the Commission or Zoning Administrator approving alteration, rehabilitation, construction, reconstruction, or demolition of a local historic structure or local historic site.
- (d) *Local Historic Site* means any parcel of land of historic significance due to a 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, or part thereof used as and constituting part of the premises on which the historic structure is situated.
- (e) *Local Historic Structure* means any improvement which has a special character or special historic value as part of the development, heritage, or cultural characteristics of the City of Oconomowoc, state, or nation and which has been designated as a historic structure pursuant to the provisions of this section.
- (f) *Parcel* means a portion of land having its own tax parcel identification number.

**(3) Historic Preservation Commission Composition:** A Historic Preservation Commission is hereby created, consisting of five (5) regular members, who shall be the members of the City Architectural Commission. Each member shall have, to the highest extent practical, a known interest in historic preservation. Three (3) members are needed to establish a quorum, and three (3) affirmative votes are needed to approve any request.

**(4) Historic Preservation Commission Powers and Duties:**

- (a) **Designation:** The Commission shall have the power, only after a property has been nominated by application submitted by the property owner and subject to Sections 17.705(5) and 17.705(6), to recommend the designation of local historic structures and local historic sites within the City limits of the City of Oconomowoc. Such designations shall satisfy the criteria of Section 17.705(5)(b). The designation of local historic structures and sites shall require the approval of the Common Council. Once designated, such local historic structures and sites shall be subject to all the provisions of this ordinance.
- (b) **Regulation of Alteration, Rehabilitation, Construction, Reconstruction:** An owner or person in charge of a local historic structure or local historic site shall not alter, rehabilitate, construct, or reconstruct all or any part of the exterior of such property or construct any improvement upon such designated property unless a Certificate of Appropriateness has been granted by the Historic Preservation Commission per the requirements of Section 17.705(7)(c). The Building Inspector shall not issue a permit for any such work until a Certificate of Appropriateness has been approved by the Commission. Certificates granting the demolition of such property shall also require approval by the Common Council.
- (c) **Regulation of Demolition:** An owner or person in charge of a local historic structure or local historic site shall not demolish all or any part of the exterior of such property unless a Certificate of Appropriateness has been granted by the Common Council per the requirements of Section 17.705(7)(d). Any request for a Certificate of Appropriateness regarding the demolition of such property shall first be reviewed by the Historic Preservation Commission and a recommendation made to the Common Council. The Building Inspector shall not issue a permit for any such work until a Certificate of Appropriateness has been approved by the Common Council.
- (d) **Appeals:** Should the Commission choose to not issue a Certificate of Appropriateness based on the criteria described in Section 17.705(7)(c), the applicant may appeal such decision to the Common Council within thirty (30) days. Denial of a Certificate of Appropriateness may be appealed following the procedures described in Section 17.705(7).
- (e) **Recognition of Historic Structures and Sites:** At such time as a historic structure or site has been properly designated, the property owner, in cooperation with the Commission, may prepare and erect on such property a suitable plaque declaring that such property is a historic structure or site.

**(5) Nominations for Designation of Local Historic Structure or Local Historic Site:**

- (a) **Nominations:** Nominations for local historic structure and local historic site designation, or requests to rescind a designation, shall be made as follows:
1. Only the owner of a property may nominate said property for designation at any time or request to rescind a designation by submitting a completed nomination form, provided by the Planning Department, and any appropriate accompanying documentation. The application shall include relevant information, plans, dimensions, and photos.
- (b) **Criteria:** For purposes of this ordinance, a local historic structure or local historic site 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, or cultural significance to the City of Oconomowoc such as historic structures or sites which:
1. Exemplify or reflect the broad cultural, political, economic, or social history of the nation, state, or community; 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 or her age; or
  5. Have yielded, or may be likely to yield, information important to prehistory or history.

**(6) Procedures for the Designation of Local Historic Structures and Local Historic Sites:**

- (a) **Commission Recommendation:** Upon receipt of a nomination as described in Section 17.705(5)(a), the Commission shall, within sixty (60) days and after application of the criteria in Section 17.705(5)(b), recommend to the Common Council the designation of the property as either a local historic structure or a local historic site or recommend rescinding the designation. If deemed necessary, the Commission may conduct an independent investigation into the proposed designation or the proposed rescinding of the designation.
- (b) **Public Hearing:** Upon receipt of a recommendation from the Commission, the Common Council shall schedule a public hearing to consider the designation of the local historic structure or local historic site, or the rescinding of such designation. At least ten (10) days prior to such hearing, the Zoning Administrator shall notify in writing the owners of record, as identified by the Waukesha County Land Information

Office, who are owners of property in whole or in part situated within two hundred (200) feet of the boundaries of the property affected.

- (c) **Common Council Action:** The Council shall then conduct such public hearing and, in addition to the notified persons, may hear expert witnesses. The Common Council shall then either designate the local historic structure or local historic site or reject or rescind such a designation. Such action shall not become effective except by the favorable vote of a simple majority of the entire membership of the Common Council. After the decision has been made, notification shall be sent to the property owner or owners. Notification shall also be given to Oconomowoc's Historical Preservation Commission.
- (d) **Rescinding of a Designation:** A property owner may seek to rescind the designation of a property as a historic site or historic structure. If the property owner seeks to rescind a designation, following the procedure outlined in Section 17.705(5)(a), the Zoning Administrator shall administratively approve the request to rescind the designation unless the intent of the property owner is to demolish the historic site or historic structure. In the case of administrative approval, no demolition or razing permit shall be granted by the City to the subject property within forty-eight (48) months of the date the historic designation was rescinded. If the property owner seeks to rescind a designation for the purposes of demolition, the notice and public hearing requirements for the establishment of a historic site or structure shall be followed with respect to consideration of the proposed rescinding. The Historic Preservation Commission shall make a recommendation to the Common Council regarding the proposal to rescind the designation. The Common Council shall then, after conducting a public hearing, take final action on the request.
- (e) **Voluntary Restrictive Covenants:** The owner of any historic structure or site may, at any time following such designation of the property, enter into a restrictive covenant on the subject property. The Commission may assist the owner in preparing such covenant in the interest of preserving the structure or site. The owner shall record such covenant in the office of the Waukesha County Register of Deeds and shall notify the City Assessor of such covenant and the conditions thereof.

#### **(7) Certificate of Appropriateness:**

- (a) **Prohibition:** No alteration, rehabilitation, construction, or reconstruction which is visible on the exterior or demolition shall be done to a local historic structure or on a local historic site unless a Certificate of Appropriateness has been issued by the Historic Preservation Commission or Common Council. Further, no building permit or demolition permit shall be issued for any historic structure until the Building Inspector is satisfied that a Certificate of Appropriateness has been issued.
- (b) **Application:** An application for a Certificate of Appropriateness will be provided by the City Planning Department. A complete application shall contain such information as requested by the Commission and shall be accompanied by plans, renderings, and photos as needed.
- (c) **Applications for Alteration, Rehabilitation, Construction, or Reconstruction:**

1. Any application for a Certificate of Appropriateness for the alteration, rehabilitation, construction, or reconstruction of a local historic structure or of an improvement on a local historic site shall be filed with the Planning Department and either approved, conditionally approved, or denied by the Commission within sixty (60) days of its filing or else the matter is deemed approved.
2. Upon filing of any application for a Certificate of Appropriateness with the Commission, the Commission shall consider the following criteria:
  - a. Whether 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.
  - b. Whether the existing building or structure is of such architectural or historical significance that its alteration would be detrimental to the public interest and contrary to the general welfare of the people of the City of Oconomowoc and state.
  - c. Whether the proposed alterations have historical basis.
  - d. Whether the removal or alteration of any historic material or distinctive architectural features have been avoided to the greatest extent practicable.
  - e. Whether the proposed height, proportions, roof, and architectural details are compatible with the architectural character of the structure and site.
  - f. In the case of the construction of a new improvement upon a historic site, whether the exterior of such improvement would adversely affect or not harmonize with the external appearance of other neighboring improvements on such site.
3. The Commission shall review complete applications for Certificates of Appropriateness at its regular meetings and shall approve, conditionally approve, or deny each request for a certificate. Upon granting a certificate, the Planning Department shall issue to the applicant a Certificate of Appropriateness.
4. Should the Commission fail to issue a Certificate of Appropriateness due to the failure of the proposal to conform to the guidelines in this ordinance, the applicant may appeal such decision to the Common Council within forty-five (45) days of the Commission's final decision.

**(d) Applications for Demolition:**

1. An owner or person in charge of a local historic structure or site shall not be granted a permit to demolish such property without the written approval of the Common Council.
2. Any application to the Building Inspector for a permit to demolish a local historic structure or improvement on a local historic site shall contemporaneously be filed with the Commission. The Commission shall review the application and shall, within sixty (60) days of the filing of that application, make a recommendation to the Common Council with respect to the proposed demolition.
3. Upon receipt of the recommendation of the Commission or if no recommendation is made sixty (60) days after the filing of the original application, the request for demolition shall be submitted for review and consideration by the Common

Council. The Council shall make its decision regarding demolition within one hundred twenty (120) days of the Council's receipt of the recommendation from the Commission or the expiration of the time period allowed for the Commission's review.

4. In evaluating the petition for demolition, the Historic Preservation Commission and the Common Council shall consider the following:
    - a. The age and physical condition of the structure or improvement on the site.
    - b. The cost of repairs of the structure or improvement on the site as compared to the fair market value of that structure or improvement.
    - c. Whether the denial of the demolition permit would result in loss of all reasonable and beneficial use of or return from the property.
    - d. Whether 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.
    - e. Whether the historic structure is of such old and unusual or uncommon design, texture, or material that it could not be reproduced or could only be reproduced with great difficulty and expense.
    - f. The historic significance of the structure or improvement on the site.
    - g. Whether any proposed new structure to be constructed or new use of the site is compatible with any adjacent historic structures and sites.
  5. Upon approval of the petition for demolition by the Common Council, the Building Inspector shall issue the permit to demolish the property provided all other codes and City ordinances are complied with.
  6. Should the Commission fail to recommend issuing a demolition permit due to the failure of the proposal to conform to the guidelines in this ordinance, the applicant may appeal such decision to the Common Council within forty-five (45) days of the Commission's final decision. Should the Common Council fail to issue a demolition permit due to the failure of the proposal to conform to the guidelines of this ordinance, the applicant may appeal such decision to the Circuit Court of Appeals.
- (e) **Expiration:** A Certificate of Appropriateness shall expire one (1) year after the date of issuance unless a building or demolition permit has been issued. Building, demolition, or sign permits are separate from the certificate, and the applicant shall also secure such necessary permits prior to commencing the work. The City Building Inspector shall be provided a copy of the Certificate of Appropriateness prior to issuance of any other relevant permits.
- (f) **Administrative Approvals:** Ordinary building maintenance and other work that involves repairs to existing features of a historic structure or site, the replacement of elements of a structure or improvement on a site with pieces similar in appearance, or the changing of façade colors to similar hues may be undertaken without the approval of the Commission. A Certificate of Appropriateness is still required for this work; however, the work shall be approved by the City Zoning Administrator as designee of the Commission. Unless the Commission or the Zoning Administrator

approves a Certificate of Appropriateness, a building permit shall not be issued for any such work.

**(8) Demolition by Neglect:** In order to promote the purposes of historic preservation, this subsection requires that owners of historic properties maintain their properties and not allow them to fall into disrepair. The requirements of this subsection are applicable only to properties with local historic designation.

Owners or others having legal possession, custody, or control of a historic property shall maintain or cause to be maintained the exterior and structural features of their properties and not allow conditions of neglect to occur on such properties. It is a violation of the City's Ordinances to not remedy a condition of neglect within the period of time set by a final administrative determination as described in Section 17.705(8)(b).

(a) Conditions of neglect include, but are not limited to, the following:

1. Deterioration of exterior walls, foundations, or other vertical support that causes leaning, sagging, splitting, listing, or buckling or deterioration of flooring or floor supports, roofs, or other horizontal members that causes leaning, sagging, splitting, listing, or buckling;
2. Deterioration of external chimneys that causes leaning, sagging, listing, or buckling;
3. Deterioration or crumbling of exterior plasters or mortars or ineffective waterproofing of exterior walls, roofs, and foundations, including broken windows or doors;
4. Defective protection or lack of weather protection for exterior wall and roof coverings, including lack of paint, or weathering due to lack of paint or other protective coverings;
5. Rotting, holes, and other forms of decay;
6. Deterioration of exterior stairs, porches, handrails, window and door frames, cornices, entablatures, wall facings, and architectural details that causes delamination, instability, loss of shape and form, or crumbling;
7. Deterioration that contributes to a hazardous or unsafe condition;
8. Deterioration of fences, gates, and accessory structures.

(b) Procedure for Enforcement. Upon receipt of a complaint or upon observation, if the Zoning Administrator makes a preliminary determination that a historic property is being neglected, the Zoning Administrator shall inform the property owner of the preliminary determination and notify the Historic Preservation Commission of the preliminary determination. The Zoning Administrator will seek remedial action by the property owner. If remedial action has not commenced within thirty (30) days of initial notification, the Zoning Administrator, after consultation with the Historic Preservation Commission, shall make a finding of violation.

In the event of finding a violation and the corrective action specified in the notice is not instituted within the time allotted, the Zoning Administrator will forward the matter to the City Police Department and City Attorney for appropriate action.

**(9) When Building or Demolition Permit is not Required:** When neither a building permit nor a demolition permit is required, if a proposed alteration or demolition constitutes a material change in the exterior appearance of a local historic structure or of an improvement on a local historic site, then a Certificate of Appropriateness shall be required. Failure to receive a certificate prior to effecting such material change shall constitute a violation of this chapter.

**(10) Interim Control:** No building permit shall be issued by the Building Inspector for the exterior alteration, rehabilitation, construction, reconstruction, or demolition of a nominated historic structure or of an improvement upon a nominated historic site from the date of the meeting of the Historic Preservation Commission at which a nomination form is first presented until the final disposition of the nomination by the Historic Preservation Commission or the City Council unless such alteration, rehabilitation, construction, reconstruction, or demolition is authorized by formal resolution of the City Council as necessary for public health, welfare, or safety.

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

**(12) Penalties and Violations:** Any person or persons violating any provision of this section shall forfeit fifty dollars (\$50) for each changed feature of said structure, and each separate violation shall be deemed a separate violation per day, until corrective action is taken. Notice of violations shall be issued by the City Attorney.