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### **Sec. 114-173. Purpose and intent.**

It is declared a matter of public policy that the protection, enhancement, perpetuation and use of improvements of special character or special historical interest or value is a public necessity and is required in the interest of health, prosperity, safety and welfare of the people. The purpose of this division is to:

- (1) Effect and accomplish the protection, enhancement and perpetuation of such improvements that represent or reflect elements of the city's cultural, social, economic, political, engineering and architectural history.
- (2) Safeguard the city's historic and cultural heritage as embodied and reflected in such historic structures, sites, districts and neighborhoods.
- (3) Stabilize and improve property values.
- (4) Foster civic pride in the beauty and noble accomplishments of the past.
- (5) Protect and enhance the city's attractions for residents, tourists and visitors and to serve as a support and stimulus to business and industry.
- (6) Strengthen the economy of the city.
- (7) Promote the use of historic structures, sites, districts and neighborhoods for the education, pleasure and welfare of the people of the city.

(Ord. No. 643-09, §§ I, II, 4-8-09)

### **Sec. 114-176. Historic structures, sites, neighborhoods and districts designation criteria.**

- (1) For purposes of this division, an historic structure, site, neighborhood or district designation may be placed on any site, natural or improved, including any building, improvement or structure located thereon or any area of particular historic, architectural or cultural significance to the city in accordance with the criteria detailed in this section. Designation shall be based on a comprehensive consideration of all relevant factors. Within this division, properties granted historic structure, site, neighborhood or district designation are referred to as "designated properties".
- (2) Designation may be granted to structures, sites, neighborhoods or districts that:
  - (a) Exemplify, reflect or hold significant value as part of the broad cultural, political, economic or social history of the nation, state or city;
  - (b) Are identified with historic personages or with important events in national, state or local history;
  - (c) 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
  - (d) Are representative of the notable work of a master builder, designer or architect whose individual genius influenced his age.
  - (e) Are identifiable as established and familiar visual features in the community owing to their unique location or physical characteristics.

(Ord. No. 643-09, §§ I, II, 4-8-09)

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## **Sec. 114-177. Landmark and historic district designation—Procedures.**

- (1) Application.
  - (a) Any person, group of persons or association, may apply for historic structure, site, district or neighborhood designation for property and improvements located within the corporate limits of the city. The owner of any property that is currently designated may apply for a rescission of that dedication following the same procedures. Where this section refers to procedures applicable to the nomination and designation of properties, those procedures also apply to the rescission of dedication unless otherwise stated. When rescission is requested for economic reasons it shall only be considered in accordance with parameters established under subsection 114-182(2).
  - (b) Nominations shall be made to the preservation commission on forms provided for that purpose. The application shall include or be accompanied by the following:
    1. The name and address, as shown on the tax assessor's rolls of the owner of property proposed for designation.
    2. The legal description and common street address of property proposed for designation.
    3. A map delineating the boundaries and location of property proposed for designation.
    4. A written statement describing the property and setting forth reasons in support of the designation proposed.
    5. An indication of whether or not the owner(s) consents to the proposed designation.
    6. Such other information as may be required by the preservation commission.
- (2) Notification of nomination and preliminary review. Upon receipt of an application for designation or rescission, the chairman of the preservation commission shall schedule a preliminary review to be held within 45 days. He shall notify the applicant and the property owner(s) of the time and place of the preliminary review. The city tax assessor, public works department, parks division, fire and police departments, health officer, building inspector and plan commission shall also be notified with the request that they each report to the preservation commission in a timely manner on any matters affecting the subject property or surrounding area.
- (3) Public hearing and decision.
  - (a) Scheduling of the public hearing. If the preservation commission finds at the time of the preliminary review that an application merits further consideration, then a public hearing shall be scheduled to be held within the next 60 days. The preservation commission shall notify the city tax assessor, public works department, parks division, fire and police departments, health officer, building inspector and plan commission. Each such department shall respond to the commission within 30 days of notification with its comments on the proposed designation or rescission.
  - (b) Notice of the public hearing. In cases of a nomination of a structure or site, notice of the date, time, place and purpose of the public hearing and a copy of the completed nomination form shall be sent to the owners of record of the nominated property, to the nominator(s), and to the owners of record as listed in the office of the city assessor of all property in whole or in part situated within 200 feet of the boundaries of the nominated property at least ten days prior to the date of the hearing. In cases of a nomination of an area as a historic district or historic neighborhood, notice of the date, time, place and purpose of the public hearing and a copy of the completed nomination form shall be sent to the owners of record of each property located within the boundaries of the nominated historic district or historic neighborhood and to the nominator(s), at least ten days prior to the date of the hearing. Notice of such hearing shall also be published as a Class 1 notice under state statutes stating the

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- common street address and legal description of a nominated structure or site or legal description and boundaries of a nominated district along with the date, time, place and purpose of the public hearing. Requirements set forth in this subsection also apply to applications for rescission.
- (c) Required materials. The applicant shall produce at the time of the hearing such information as the preservation commission may require including, but not limited to, the following:
1. All information required with the application.
  2. A visual presentation of the significant improvements on the subject property, together with information as to the age, condition and use of each.
  3. Proposals for preservation and enhancement of the property proposed for designation or a detailed explanation of the reason rescission is requested.
- (d) Conduct of the hearing. The preservation commission shall conduct such public hearing. The applicant and the owners of subject property shall be entitled to speak at the public hearing and the preservation commission will accept comments from all other interested parties. In addition to notified persons and members of the general public, the preservation commission may hear expert witnesses and shall have the power to subpoena such witnesses and records as it deems necessary. The preservation commission may conduct an independent investigation into the proposed designation or rescission. The preservation commission shall review and evaluate all available information according to the applicable standards set forth herein. A record of the proceedings shall be made and retained as a public record.
- (e) Approval timeline. The preservation commission shall approve, approve with modifications or deny the requested designation within ten days after the public hearing; provided, however, that the preservation commission may not modify a designation to extend beyond the property described in the application unless a new application is filed and the procedure repeated. Rescission of designation for economic reasons is subject to timelines as specified under subsection 114-182(2). A majority vote of the entire preservation commission is required for approval.
- (f) Informing parties of interest. Following the public hearing, the secretary of the preservation commission shall prepare a report on the outcome of the preservation commission's action including all available information for submission to the city council within 30 days, as an information item. The owner(s) of record and parties who spoke at the public hearing shall be notified promptly by a letter containing information on the preservation commission's decision. Notification shall also be given to the city clerk, building inspector and the city assessor. The preservation commission shall cause the designation or rescission to be recorded at city expense in the county register of deeds' office.
- (g) Effect of denial. If the preservation commission denies the petition, no petitioner or applicant can file for 90 days to the secretary of the preservation commission to consider this same request.
- (h) Effect of approval. Properties approved for designation as historic structures, sites, districts or neighborhoods become subject to all provisions of this division. Properties approved for a rescission of dedication are no longer subject to the provisions of this division.
- (i) Voluntary restrictive covenants. The owner of any historic structure or site may at any time following such designation of his property enter into a restriction covenant on the subject property after negotiation with the commission. The commission may assist the owner in preparing such covenant in the interest of preserving the historic property. The owner shall record such covenant in the county register of deeds office and shall notify the city assessor of such covenant and the conditions thereof.
- (4) After the date of filing an application, as outlined above, until the date of a final decision by the preservation commission no building permit shall be issued for the alteration, construction, demolition, or removal of the

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nominated property except as permitted under the provisions of section 114-179. In no event shall the delay so imposed exceed 210 days.

(Ord. No. 643-09, §§ I, II, 4-8-09)

**Sec. 114-178. Establishment of regulated work, activities and uses.**

- (1) Work on designated property and improvements shall be regulated as follows:
  - (a) Historic structures. No alterations, interior construction which affects structural members, exterior construction or exterior demolition may be performed on designated historic structures or the property on which they are located, except as have been approved by a certificate of appropriateness. Such work is herein referred to as "regulated work".
  - (b) Historic sites, districts and neighborhoods. No alterations, exterior construction or exterior demolition may be performed on property and improvements located within an area that has been designated under this division as an historic site, district or neighborhood, except as have been approved by a certificate of appropriateness. Such work is herein referred to as "regulated work".
- (2) Signs, banners, canopies and the like for designated properties are subject to the same restrictions as "regulated work".
- (3) Regulated work restricted.
  - (a) Any application for a permit from the building inspector involving regulated work shall be filed with the preservation commission. Unless such certificate has been granted by the preservation commission, the building inspector shall not issue a permit for any such work.
  - (b) No one shall cause or permit any regulated work to be performed unless a certificate of appropriateness has been granted by the preservation commission.

(Ord. No. 643-09, §§ I, II, 4-8-09)

**Sec. 114-179. Certificate of appropriateness, procedure.**

- (1) *Application.* Persons wishing to undertake regulated work shall file an application for a certificate of appropriateness at the city clerk's office on forms provided for that purpose. Each application shall be accompanied by all relevant plans and specifications for the work to be undertaken. The city clerk, within seven working days, shall submit copies of all applications to the preservation commission.
- (2) *Review and approval process.*
  - (a) *Preapplication consultation.* Any applicant may request a meeting with the preservation commission before submitting an application for a certificate of appropriateness and may consult with the preservation commission during the review of the application.
  - (b) *Decision.* At the next regular meeting following receipt of all necessary materials for review of the certificate of appropriateness, the preservation commission shall review and decide upon the application. The applicant may request a special meeting if the next regular preservation commission meeting is scheduled 15 days or more after the city's receipt of all necessary materials. The preservation commission shall grant a certificate of appropriateness if it finds that the proposed work is clearly appropriate and in accordance with the applicable criteria set forth in subsection (4). Copies of the certificate of appropriateness shall be forwarded to the owner(s) of record and the building inspector.

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- (c) *Effect of denial.* When an application has been denied, the preservation commission shall notify the applicant in writing of the decision, with reasons for denial. The denial letter shall list the criteria and standards set forth in subsection (4), which if met, would make the application acceptable to the preservation commission. Within 30 days of receipt of the notification of denial, the applicant must either file a written modification of his application bringing it in conformity with the criteria and standards set forth in the denial letter or file an appeal to the common council on the basis of economic hardship. If the applicant fails to respond in either of those ways, in the required timeframe, the application shall be deemed null and void.
  - (d) *Action on modified applications.* Following denial of a certificate of appropriateness, within 30 days of the receipt of a written modification, the preservation commission shall issue or deny the certificate of appropriateness in accordance with the established procedures and criteria detailed in this section.
- (3) *Changes following issuance of a certificate of appropriateness.* After the issuance of a certificate of appropriateness, no change may be made in the proposed work without review and approval of a new application for a certificate of appropriateness.
- (4) *Criteria.* In making a determination whether to issue or deny a certificate of appropriateness, the preservation commission shall consider, among other things, the effect of the proposed construction, alteration, removal or demolition upon historic, aesthetic or architectural value, characteristics and significance of the structure, site, neighborhood and/or district. The criteria to be used by the preservation commission in making its determination shall include, but are not limited to:
- (a) The maintenance of the significant original qualities or character of the structure or property, including, if significant, its landscape. The removal or alteration of any historic or distinctive architectural features shall be avoided.
  - (b) The compatibility of the architectural style and design detailing the proposed construction, alteration, addition or repair with the original architecture of the landmark or styles within the historic district.
  - (c) The compatibility of the general design, arrangement, scale, texture or materials of the construction or alteration, with the historic, aesthetic or architectural values, characteristics and significance of the historic district and/or landmark.
  - (d) The relationship of the location of the construction, alteration, or demolition to the streets, public or semipublic ways and any other improvement or property within a historic district.
  - (e) Whether, in the case of a designated historic structure, site or structure within an historic district, the proposed work would detrimentally change, destroy or adversely affect any exterior architectural feature of the improvement upon which such work is to be done.
  - (f) Whether, in the case of the construction of a new improvement upon an historic site, the exterior of such improvement would adversely affect or not harmonize with the external appearance of other neighboring improvements on such site.
  - (g) Whether construction, alteration and demolition are done in accordance with the following:
    1. All buildings, structures, and sites are recognized as products of their own time, and alterations have a historical basis.
    2. Such exterior physical changes as may have taken place in the course of time are evidence of the history and development of a building, structure, or site and its environment. Because these changes may have acquired significance in their own right, this significance should be recognized and respected.
    3. Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure, or site are treated with sensitivity.

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4. Deteriorated architectural features are repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material need not be identical to but should match the material being replaced in composition, design, color, texture and other visual qualities.
  5. The surface cleaning of structures is undertaken with the gentlest means possible. Abrasive cleaning and other cleaning methods that will damage the historic building materials should not be undertaken.
  6. Every reasonable effort will be made to protect and preserve archaeological resources affected by, or adjacent to, any project.
  7. Contemporary design for alterations and additions to existing properties is undertaken in such a manner that it does not destroy significant historical, architectural or cultural materials, and such design is compatible with the size, scale, color, material and character of the property, neighborhood or environment as outlined:
    - a. Height. The height of the proposed structure or additions or alterations should be compatible with surrounding structures.
    - b. Proportions of structure's front façade. The proportions and relationships between the width and height of the proposed structure should be compatible with nearby structures.
    - c. Proportions of openings into facility. The proportions and relationships between doors and windows should be compatible with existing structures.
    - d. Relationship of building masses and spaces. The relationship of a structure to the open space between it and adjoining structures should be compatible.
    - e. Roof shapes. The design of the roof should be compatible with adjoining structures.
    - f. Landscape and appurtenances. Landscaping and the use of appurtenances should be sensitive to the individual structures, its occupants and their needs. Further, the landscape treatment should be compatible with surrounding structures and landscapes.
    - g. Scale of structure. The scale of the structure should be compatible with surrounding structures.
    - h. Directional expression of front elevation. Street façades should blend with other structures with regard to directional expression. When adjacent structures have a dominant horizontal or vertical expression, this should be carried over and reflected.
    - i. Architectural details. Architectural details and materials should be incorporated as necessary to relate the new with the old and to preserve and enhance the inherent characteristics of that area.
  8. Wherever possible, new additions or alterations to structures should be done in such manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would not be impaired.

(Ord. No. 643-09, §§ I, II, 4-8-09)

### **Sec. 114-180. Certificate of economic hardship.**

- (1) *Eligibility and terms.* Notwithstanding any of the provisions of this division to the contrary, the common council may issue a certificate of economic hardship to allow the performance of work for which a certificate of appropriateness has been denied. The certificate of economic hardship requires a two-thirds vote of the

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full council upon a clear showing of economic hardship by the applicant in accordance with the terms of this section.

- (2) *Application.* To be considered for a certificate of economic hardship the applicant shall provide the following information in an affidavit signed by the owner of the subject property:
- (a) The amount paid for the property, the date of purchase and the party from whom purchased (including description of the relationship, if any, between the owner and the person from whom the property was purchased).
  - (b) The assessed value of the land and improvements thereon according to the two most recent assessments.
  - (c) Real estate taxes for the previous two years, and proof that they are paid in full.
  - (d) Annual debt service, if any, for the previous two years.
  - (e) All appraisals obtained within the previous two years by the owner or applicant in connection with his purchase, financing or ownership of property.
  - (f) Any listing of the property for sale or rent, price asked and offers received, if any.
  - (g) Any consideration by the owner as to profitable adaptive uses for the property.
  - (h) If the property is income-producing, the annual gross income from the property for the previous two years, itemized operating and maintenance expenses for the previous two years, and annual cash flow, if any, during the same period.
  - (i) A description of the necessity for the work, as proposed, explaining the economic hardship resulting from denial of the certificate of appropriateness and/or the economic hardship that would be incurred in efforts to satisfy the criteria detailed in the denial of the certificate of appropriateness.
- (3) *Decision.* If the common council finds that, without approval of the proposed work, the property and improvements cannot be put to a reasonable beneficial use or the owner cannot obtain a reasonable economic return therefrom the common council is authorized to issue a certificate of economic hardship. If the common council finds otherwise, it shall deny issuance of the certificate of economic hardship. At the discretion of the common council a final decision regarding issuance of the certificate of economic hardship may be delayed for a period not to exceed six months. During this period of delay, the applicant shall investigate plans to allow for a reasonably beneficial use or a reasonable economic return, or to otherwise preserve the subject property and improvements. The common council may request that the preservation commission provide assistance to the applicant in this endeavor. Upon a decision by the common council regarding a certificate of economic hardship, the city clerk shall notify the preservation commission, the applicant and the building inspector within seven days.
- (4) *Effect of decision.* The issuance of a certificate of economic hardship acts in lieu of a certificate of appropriateness for the identified work. The building inspector may proceed to issue building permits for such work following standard procedures once a certificate of economic hardship has been granted.

(Ord. No. 643-09, §§ I, II, 4-8-09)

### **Sec. 114-181. Miscellaneous provisions.**

- (1) *Notice to preservation commission.* The city administrator or designee shall provide notice in writing to the chairperson of the preservation commission at least 15 days in advance of any forthcoming public hearings regarding zoning, conditional use or variance petitions involving designated properties. Additionally, the building inspector shall provide notice in writing to the chairman of the preservation commission at least 60 days in advance of plans by the city to alter or demolish a designated property owned by the city.

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- (2) *Affirmation of existing codes and ordinances.* Nothing contained in this division shall supersede the powers of other local legislative or regulatory bodies, or relieves any property owner from complying with the requirements of any other applicable codes and ordinances.

(Ord. No. 643-09, §§ I, II, 4-8-09)

### **Sec. 114-182. Demolition and rescission.**

- (1) *Regulation of demolition.* No permit to demolish all or part of an historic structure shall be granted by the building inspector, except as follows:
- (a) At such time as a person applies for a permit to demolish such property, the application shall be filed with the preservation commission. Upon application, the preservation commission may refuse to grant such written approval for a period of up to ten months from the time of such application, during which time the commission and the applicant shall undertake serious and continuing discussions for the purpose of finding a method to save such property. During such period, the applicant and the commission shall cooperate in attempting to avoid demolition of the property. At the end of this ten-month period, if no mutually agreeable method of saving the subject property bearing a reasonable prospect of eventual success is underway or no formal application for funds from any governmental unit or nonprofit organization to preserve the subject property is pending, the common council may direct the building inspector to issue the permit to demolish the subject property without the approval of the preservation commission.
  - (b) In determining whether to allow the issuance of a permit for any demolition, the preservation commission shall consider and may give decisive weight to any or all of the following:
    - 1. Whether the building or structure is of such architectural or historic significance that its demolition would be detrimental to the public interest and contrary to the general welfare of the people of the city and the state.
    - 2. Whether the building or structure is of such old and unusual or uncommon design, texture and/or material that it could not be reproduced or be reproduced only with great difficulty and/or expense.
    - 3. Whether retention of the building or structure would promote the general welfare of the people of the city and the state by encouraging study of American history or architecture design, or by developing an understanding of American culture and heritage.
    - 4. Whether the building or structure is in such a deteriorated condition that it is not structurally or economically feasible to preserve or restore it, provided that any hardship or difficulty claimed by the owner that is self-created or is the result of any failure to maintain the property in good repair cannot qualify as a basis for the issuance of a demolition permit.
  - (c) An appeal from the decision of the preservation commission to grant or deny a demolition permit or to suspend action on a demolition application may be taken to the common council by the applicant for the demolition permit or by the mayor or the council member of the district in which the subject building or structure is located. Such appeal shall be initiated by filing a petition to appeal specifying the grounds with the city clerk within ten days of the date the final decision of the preservation commission is made. The city clerk shall file the petition to appeal with the common council. After a public hearing, the council may by favorable vote of two-thirds of its members, reserve or modify the decision of the preservation commission if, after balancing the interest of the public in preserving the subject property and the interest of the owner in using it for his own purposes, the council finds that owing to special conditions pertaining to the specific piece of property, demolition will preclude any and all reasonable use of the property and/or a failure to approve the demolition will cause serious

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hardship for the owner, provided that any self-created hardship shall not be a basis for reversal or modification of the preservation commission's decision.

- (2) *Rescinding designation of historic structures, sites or structures within an historic district for economic reasons.* Any person who is listed as the owner of record of an historic structure, site, or structure within an historic district at the time of its designation who can demonstrate to the preservation commission that by virtue of such designation he is unable to find a buyer willing to preserve such an historic structure or site even though he has made reasonable attempts in good faith to find and attract such a buyer, may petition the preservation commission for a rescission of its designation. Following the filing of such petition with the secretary of the preservation commission:
- (a) The owner and the preservation commission shall work together in good faith to locate a buyer for the subject property who is willing to abide by its designation.
  - (b) If at the end of a period not exceeding 12 months from the date of such petition no such buyer can be found and if the owner still desires to obtain such rescission, the preservation commission shall rescind its designation of the subject property.
  - (c) In the event of such rescission, the preservation commission shall notify the city clerk, the building inspector and the city assessor of the rescission and shall cause the rescission to be recorded at its own expense in the office of the county register of deeds.
  - (d) Following such rescission, the preservation commission may not redesignate the subject property an historic structure or site for a period of not less than five years following the date of rescission.

(Ord. No. 643-09, §§ I, II, 4-8-09)

### **Sec. 114-183. Conformance with regulations.**

Every person in charge of any historic structure or site shall maintain the structure or site or cause or permit it to be maintained in a condition consistent with the provisions of this division. The city council may appoint the building inspector or other designee to enforce this division. The duties of the designee shall include periodic inspection at intervals provided by the city council of designated historic structures and sites. These inspections may include physical entry upon the property and its improvements with permission of the owner to ensure that interior alterations or maintenance will not jeopardize the exterior appearance or structural stability of the improvement. If an owner refuses permission for entry for purposes of inspection, the building inspector may obtain a warrant of entry pursuant to Wis. Stats. § 66.122, and take any other reasonable measures to further enforce this division.

(Ord. No. 643-09, §§ I, II, 4-8-09)

### **Sec. 114-184. Maintenance of historic structures, sites and districts.**

- (1) Every person in charge of an improvement on an historic site shall keep in good repair all of the exterior portions of such improvement and all interior portions thereof that, if not so maintained, may cause or tend to cause the exterior portions of such improvement to fall into a state of disrepair. This provision shall be in addition to all other provisions of law requiring such improvement to be kept in good repair.
- (2) Insofar as they are applicable to an historic structure, site or district designated under this division, any provision of articles III and V of chapter 18, may be varied or waived on application to the appropriate board having such jurisdiction over such chapters or in the absence of such board, to the building inspector, provided such variance or waiver does not endanger public health or safety.

(Ord. No. 643-09, §§ I, II, 4-8-09)

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**Sec. 114-185. Conditions dangerous to life, health or property.**

Nothing contained in this division shall prohibit the making of necessary construction, reconstruction, alteration or demolition of any historic structure or any improvement on an historic site pursuant to order of any governmental agency or any court judgment for the purpose of remedying emergency conditions determined to be dangerous to life, health or property. In such cases, no approval from the preservation commission shall be required.

(Ord. No. 643-09, §§ I, II, 4-8-09)

**Sec. 114-186. Penalties for violations.**

Any person violating any provisions of this division or any regulation, rule or order made under this division shall be subject to a penalty as provided in section 1-14.

(Ord. No. 643-09, §§ I, II, 4-8-09)

**Sec. 114-187. Appeal process.**

An appeal from any final decision made by the preservation commission pursuant to sections 114-177 through 114-179, or any other final decision made by the preservation commission may be made to the common council by an aggrieved party. Such appeal shall go directly to the common council and shall not first be heard by the committee of the whole. Such appeal shall be initiated by the aggrieved party filing a petition to appeal specifying the grounds for the appeal with the city clerk within 15 days of the date the final decision of the preservation commission was made. The city clerk shall file the petition to appeal with the common council. The common council shall schedule the appeal to be heard at its next regularly scheduled council meeting. When the appeal is heard, the common council shall first hear from the aggrieved party and shall then hear from a representative of the preservation commission. The parties may present additional witnesses and the common council may call its own witnesses. In considering the appeal, the burden shall be upon the aggrieved party to prove by a preponderance of the evidence that the preservation commission has inappropriately applied the criteria to be considered in making the initial decision. Following the receipt of testimony, the council may, by favorable vote of two-thirds of its members, approve the appeal.

(Ord. No. 794-24, § 1, 6-4-24)