

## **Sec 105-1006 Historic Preservation Regulations And Housing Rehabilitation Loan Program**

(a) *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 or historic interest or value is a public necessity and is required in the interest of the health, prosperity, safety and welfare of the people. The purpose of this section is to:

- (1) Effect and accomplish the protection, enhancement and preservation of such improvements, sites and districts which represent or reflect elements of the city's cultural, social, economic, political and architectural history.
- (2) Safeguard the city's historic, prehistoric and cultural heritage, as embodied and reflected in such historic structures, sites and districts.
- (3) Stabilize and improve property values and enhance the visual and aesthetic character of the city.
- (4) Protect and enhance the city's attractions to residents, tourists and visitors, and serve as a support and stimulus to business industry.
- (5) Provide for the administration of the city's housing rehabilitation loan program.

(b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Certificate of appropriateness* means the certificate issued by the historic preservation commission approving alteration, rehabilitation, construction, reconstruction or demolition of a historic structure, historic site or any improvement in a historic district.

*Commission* means the city historic preservation/housing rehabilitation loan commission.

*Historic district* means an area designated by the city council on recommendation of the commission, that contains two or more historic improvements or sites.

*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.

*Historic structure* means any improvement which has a special character or special historic interest or value as part of the development, heritage or cultural characteristics of the city, state or nation and which has been designated as a historic structure pursuant to the provisions of this section.

*Improvement* means any building, structure, place, work of art or other object constituting a physical betterment of real property, or any part of such betterment, including streets, alleys, sidewalks, curbs, lighting fixtures, signs and the like.

(c) *Historic preservation/housing rehabilitation loan commission composition.* A historic preservation/ housing rehabilitation commission is hereby created, consisting of seven voting members. Of the membership, if available in the community, one shall be a registered architect; one shall be a historian; one shall be a licensed real estate broker; one shall be an alderperson; and three shall be citizen members with various backgrounds in areas such as finance, housing, construction and low-to-moderate income programs. The mayor shall appoint the commissioners subject to confirmation by the city council. Of the initial members so appointed, the alderperson and one other member shall serve a term of one year, two shall serve a term of two years, and three shall serve a term of three years, so as to stagger the terms. Thereafter, with the exception of the alderperson member whose term shall be one year, the term of each member shall be three years.

(d) *Historic structure, historic site and historic district designation criteria.*

- (1) For the purposes of this section, a historic structure, historic site, or historic district designation may be placed on any site, natural or improved, including any building, improvement or structure located thereon, or any area of particular historic architectural, archeological or cultural significance to the city such as historic structures, sites, or districts which:
  - a. Exemplify or reflect the broad cultural, political, economic or social history of the nation, state or community;
  - 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;
  - d. Are representative of the notable work of a master builder, designer or architect who influenced their age; or
  - e. Have yielded, or may be likely to yield, information important to prehistory or history.

- (2) The commission may adopt specific operating guidelines for historic structure, historic site and historic district designation providing such are in conformance with the provisions of this section.

(e) *Powers and duties.* Designation. The commission shall have the power subject to subsection (f) of this section, to designation historic structures and historic sites and to recommend designation of historic districts within the city limits. Such designations shall be made based on subsection (d) of this section. Historic districts shall be approved by the city council. Once designated, such historic structures, sites and districts shall be subject to all the provisions of this section.

(f) *Regulation of construction, reconstruction, alteration, and demolition.*

- (1) No owner or person in charge of a historic structure, historic site or structure within a historic district shall be issued a permit to reconstruct, alter or demolish all or any part of the exterior of such property or to construct any exterior improvement upon such designated property or properties or cause or permit any such work to be performed upon such property or demolish such property unless a certificate of appropriateness has been granted by the commission. Also, unless such certificate has been granted by the commission, the building inspector shall not issue a permit for any such work.
- (2) Upon filing of any application for a certificate of appropriateness with the historic preservation commission, the commission shall approve the application unless:
  - a. In the case of a designated historic structure or historic site, the proposed work would detrimentally change, destroy or adversely affect any exterior feature of the improvements or site upon which said work is to be done;
  - b. In the case of the construction of a new improvement upon a historic site, or within a historic district, the exterior of such improvement would adversely affect or not harmonize with the external appearance of other neighboring improvements on such site or within the district;

- c. In the case of any property located in a historic district, the proposed construction, reconstruction, exterior alteration or demolition does not conform to the purpose and intent of this section and to the objectives and design criteria of the historic preservation plan for said district;
  - d. The building or structure is of such architectural or historical significance that its demolition would be detrimental to the public interest and contrary to the general welfare of the people of the city and state;
  - e. In the case of a request for the demolition of a deteriorated building or structure, any economic hardship or difficulty claimed by the owner is self-created or is the result of any failure to maintain the property in good repair.
- (3) If the commission determines that the application for a certificate of appropriateness and the proposed changes are consistent with the character and features of the property or district, it shall issue the certificate of appropriateness. The commission shall make this decision within 45 days of the filing of the application.
- (4) The issuance of a certificate of appropriateness shall not relieve the applicant from obtaining other permits and approvals required by the city. A building permit or other municipal permit shall be invalid if it is obtained without the presentation of the certificate of appropriateness required for the proposed work.
- (5) Ordinary maintenance and repairs may be undertaken without a certificate of appropriateness, provided that the work involves repairs to existing features of a historic structure or site or the replacement of elements of a structure with pieces identical in appearance and, provided that the work does not change the exterior appearance of the structure or site and does not require the issuance of a building permit.
- (g) *Appeals.* Should the commission fail to issue a certificate of appropriateness due to the failure of the proposal to conform to the guidelines, the applicant may appeal such decision to the city council within 30 days. In addition, if the commission fails to issue a certificate of appropriateness, the commission shall, with the cooperation of the applicant, work with the applicant in an attempt to obtain a certificate of appropriateness within the guidelines of this section.
- (h) *Recognition of historic structures, sites and districts.* At such time as a historic structure, site or district has been properly designated, the commission, in cooperation with the property owner may cause to be prepared and erected on such property at city expense, a suitable plaque declaring that such property is a historic structure, site or district.
- (i) *Housing rehabilitation loan program.* The commission shall have final policy-making and loan approval authority for the city's housing rehabilitation loan program.
- (j) *Procedures.*
- (1) *Designation of historic structures and historic sites.*
- a. The commission may, after notice and public hearing, designate of historic structures and historic sites or rescind such designation or recommendation, after application of the criteria in subsection (d) of this section. At least ten days prior to such hearing, the commission shall notify the owners of record, as listed in the city office assessor, who are owners of property in whole or in part situated adjacent to the boundaries of the property affected.
  - b. The commission shall then conduct such public hearing and, in addition to the notified persons, may hear expert witnesses and shall have the power to subpoena such witnesses and records as it deems necessary. The commission may conduct an independent investigation into the proposed designation or rescission. Within ten days after the close of the public hearing, the commission may designate the property as either a historic structure or historic site or rescind the designation. After the designation or rescission has been made, notification shall be sent to the property owner or owners. Notification shall also be given to the city clerk, building inspector, plan commission and city assessor. The commission shall cause the designation or rescission to be recorded, at the city's expense, in the county register of deeds office.
- (2) *Creation of historic district.* For preservation purposes, the commission shall select geographically defined areas within the city to be designated as Historic Districts and shall, with the assistance of the city department of community development, prepare a historic preservation plan for each area. A Historic District may be designated for any geographic area of particular historic, architectural or cultural significance to the city, after the application of the criteria in subsection (d) of this section. Each historic preservation plan prepared for or by the commission shall include a cultural and architectural analysis supporting the historic significance of the area, the specific guidelines for development, and a statement of preservation objectives.
- (3) *Review and adoption procedure.*
- a. *Historic preservation/housing rehabilitation loan commission.* 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 1 notice under state statute in the official city paper. Notice of the time, place and purpose of the public hearing shall also be sent by the city clerk to the alderperson of the alderperson district in which the Historic District is located, and the owners of record, as listed in the city office assessor, who are owners of the property within the proposed Historic District or are situated in whole or in part adjacent to the boundaries of the proposed Historic District. Said notice is to be sent at least ten days prior to the date of the public hearing. Following the public hearing, the commission shall vote to recommend, reject or withhold action on the plan.
  - b. *The city council.* The city council, upon receipt of the recommendations from the commission shall hold a public hearing, notice to be given as notice in subsection (f)(2)b.1 of this section, and shall following the public hearing either designate or reject the historic district. Designation of the historic district shall constitute adoption of the plan prepared for that district and direct the implementation of said plan.
  - c. *Interim control.* No building permit shall be issued by the building inspector for alteration, construction, demolition, or removal of a nominated historic structure, historic site, or any property or structure within a nominated historic district from the date of the meeting of the commission at which a nomination form is first presented until the final disposition of the nomination by the commission or the city council unless such alteration, removal or demolition is authorized by formal resolution of the city council as necessary for public health, welfare or safety. In no event shall the delay be for more than 180 days.
  - d. *Penalties for violations.* Any person or persons violating any provision of this section shall be fined \$50.00 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.
  - e. *Separability.* If any provision of this section or the application thereof to any person or circumstances is held invalid, the remainder of this section and the application of such provisions to other persons or circumstances shall not be affected thereby.

