

Title 17 LANDMARKS COMMISSION

Chapters:

Chapter 17.04 GENERAL PROVISIONS

Sections:

17.04.010 Intent.

It is the policy of the city that the protection, enhancement, perpetuation and use of archeological sites, geological formations, structures and city-owned historically significant personal property of special character or special historical interest or value is necessary to the prosperity and well-being of the people.

This title is adopted to:

- (1) Effect the protection, enhancement and perpetuation of such improvements and city-owned historically significant personal property and of districts which represent or reflect elements of the city's cultural, social, economic, political, architectural, archeological and geological history;
- (2) Safeguard the city's historic and cultural heritage, as embodied and reflected in such landmarks, city-owned historically significant personal property and historic districts;
- (3) Stabilize property values;
- (4) Foster civic awareness and pride in the beauty and notable accomplishments of the past;
- (5) Protect and enhance the city's attractions to residents, tourists and visitors and serve as a support and stimulus to business and industry;
- (6) Strengthen the economy of the city;
- (7) Promote the use of historic districts and landmarks for the education, pleasure and well-being of the people of the city; and
- (8) Integrate the modern environment with historic buildings and sites.

(Ord. 999 §1(1), 1982).

(Ord. No. 1733A, § 1, 6-2-2009)

17.04.020 Definitions.

In this title, unless the context clearly requires otherwise:

- (1) "Exterior alteration" means any modification of exterior dimensions of a structure including the attachment of appurtenances such as stairs, fire escapes, chimneys, carports and other similar construction or the modification of materials including, but not limited to roofing, siding, masonry, wood trim, windows or signs. Normal maintenance of existing exterior features or materials including cleaning, painting and replacement shall not be considered exterior alterations.

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- (2) "Historical marker" means any plaque or marker adopted by the commission to identify a specially designated landmark or landmark site.
 - (3) "Historic district" means an area designated by the Whitewater landmarks commission (hereinafter referred to as commission) which has a special historic, architectural or cultural interest, significance or value as part of the heritage, development or cultural characteristics of the community, state or nation.
 - (4) "Improvement" means any building, structure, work of art or other object which is all or part of any physical betterment of real property.
 - (5) "Landmark" means any building or structure which has a special historic, architectural or cultural interest, significance or value as part of the heritage, development or cultural characteristics of the community, state or nation and which has been designated as a landmark, under this section.
 - (6) "Landmark site" means any parcel of land of historic, geological or archeological significance due to its substantial value in tracing the history of man, or upon historic event has occurred, and which has been designated as a landmark site under this section; or any parcel of land, or part thereof, on which is situated a landmark.
 - (7) "Specially designated landmark" means any landmark or landmark site either within or outside an historic district of such significance that the owner agrees to special restrictions in exchange for an historical marker.
 - (8) "City-owned historically significant personal property" means personal property owned by the City of Whitewater that is deemed by the commission to have special historic, archaeological or aesthetic character such that it is in the City of Whitewater's best interest to preserve, protect and safeguard it.

(Ord. 999 §1(2), 1982; Ord. No. 1733A, § 1, 6-2-2009)

(Ord. 999 §1(2), 1982).

(Ord. No. 1733A, § 1, 6-2-2009)

17.04.030 Applicability of provisions to historic districts.

Historic districts designated by the commission shall be ratified by the city council prior to becoming subject to all the provisions of this title.

(Ord. 999 §1, 1982).

17.04.040 Exception from commission approval.

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

(Ord. 999 §1(9), 1982).

17.04.050 Penalties for violations.

Any person violating any provision of this title shall be subject to a forfeiture of not more than two hundred dollars for each separate violation. Each and every day during which a violation continues shall be deemed to be a separate violation.

(Ord. 999 §1(10), 1982).

Chapter 17.08 LANDMARKS COMMISSION

Sections:

17.08.010 Composition and qualifications.

- (a) A commission is created consisting of seven members, who shall be appointed under the procedures set forth in Title 2 of the Whitewater Municipal Code. One member shall be a council member. Six shall be members of the community.
- (b) Each member shall have, to the highest extent practicable, a known interest in landmarks preservation.

(Ord. 999 §1(3)(a)(1, 2), 1982).

(Ord. No. 1733A, § 2, 6-2-2009)

17.08.020 Terms of members.

- (a) Of the initial members so appointed, three members, including the council member, shall serve one year, two shall serve two years and two shall serve three years. Thereafter, the term of each member other than the council member, shall be three years; and the council member's term shall be for one year. Such terms shall initially expire one, two or three years from the May 1st immediately following the effective date of the ordinance codified in this title, and on the same date each year thereafter.
- (b) Commission members may be reappointed to successive terms.
- (c) Vacancies for any unexpired term shall be filled in the same manner as appointments for the full term.

(Ord. 999 §1(3)(a)(3—5), 1982).

17.08.030 Officers, rules and regulations.

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

(Ord. 999 §1(3)(2)(6), 1982).

17.08.040 Powers and duties.

The commission shall have the following powers and duties:

- (1) To develop appropriate criteria and standards for identifying and evaluating neighborhoods, places, structures, improvements, and city-owned historically significant personal property which might be

classified as landmarks, landmark sites, historic districts or specially designated landmarks or city-owned historically significant personal property;

- (2) To designate landmarks, landmark sites and historic districts or city-owned historically significant personal property within the city limits. Once designated by the commission, such landmarks, landmark sites historic districts and city-owned historically significant personal property shall be subject to all the provisions of this section;
- (3) To compile a list of structures which would be eligible for specially designated landmark status. Such structures may be within or outside of an historic district. The commission may negotiate with the owners of such structures for an agreement binding the owner and property. Such agreement may be for a specified period of time and shall be binding on subsequent owners until the end of the time specified.

Structures covered by such agreements are eligible to receive an historical marker;

- (4) To cooperate with federal, state and local agencies in pursuing the objective of historic preservation and to nominate properties designated hereunder to the National Register of Historic Places;
- (5) To develop and recommend ordinances, legislation and programs and otherwise provide information on historic preservation to the city council;
- (6) To designate appropriate markers for specially designated landmarks and historic districts;
- (7) To take all steps necessary, including the taking and collecting of photographs, drawings, descriptions, recorded interviews, written data and documentation, to permanently record the origin, development, use and historical significance of each landmark, landmark site, historic district, or city-owned historically significant personal property;
- (8) To promote public education, interest and support for the preservation and enhancement of such landmarks, landmark sites, historic districts and historically significant personal property.
- (9) If the landmarks commission has concerns related to the maintenance of a landmark, it shall notify the city manager or his or her designee. The city manager or his or her designee shall have sixty days to develop a plan of action in response to the concerns reported by the commission. The plan of action shall be sent to the commission within the sixty-day time frame. The plan of action for any city-owned landmark shall be publicly posted within the sixty-day timeframe.

(Ord. 999 § 1(3)(b)(1—8), 1982).

(Ord. No. 1733A, § 2, 6-2-2009; Ord. No. 1945A, § 1, 9-19-2017)

Chapter 17.12 DESIGNATION OF LANDMARKS, LANDMARK SITES AND HISTORIC DISTRICTS

Sections:

17.12.010 Criteria for designation.

- (a) A landmark, landmark site or historic district designation may be placed on any natural or improved site or on any area of particular historic, architectural or cultural significance which:
 - (1) Exemplifies or reflects the broad cultural, political, economic or social history of the nation, state or community; or

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- (2) Is identified with historic persons or with important events in national, state or local history; or
 - (3) Embodies the distinguishing characteristics of an architectural type inherently valuable for the study of a period, style or method of construction or of indigenous materials or craftsmanship; or
 - (4) Is representative of the notable work of a master builder, designer or architect whose work influenced his age.
- (b) The commission may adopt specific guidelines for such designation in conformance with the provisions of this section.
- (Ord. 999 §1(4), 1982).

17.12.020 Procedure for designation.

The commission may, after publication of a Class 1 notice and a public hearing thereon, establish landmarks, landmark sites and historic districts or rescind such designation after application of the criteria provided in Section 17.12.010, subject to the following:

- (1) At least ten days prior to such hearing, the commission shall notify in writing the owner of record of the property affected, the owner of record of property within three hundred feet of the affected property and the occupants of the affected property; and it shall also notify the plan and architectural review commission, and building inspector.
- (2) At such public hearings, the commission may hear other witnesses, in addition to the persons notified.
- (3) After such public hearing, the commission may designate the property as a landmark or landmark site, may include it in an historic district or may rescind such designation. Notice of such designation or rescission shall be sent to the property owner of record and to other persons identified in subsection (1) of this section. Notification shall also be given to the city clerk, building inspector, city assessor and plan commission.
- (4) Any decision of the commission, pursuant to this title may be appealed by the owner of the affected property to the city council for its determination.
- (5) If the owner of the property objects to the proposed designation, he shall file a written objection to the designation with the commission on or before the hearing. If such objection is timely filed, any action by the commission must be ratified by a two-thirds vote of the city council to become effective.

(Ord. 1105 §1, 1987; Ord. 1021 §1, 1983; Ord. 999 §1(5), 1982).

17.12.030 Recognition of landmarks, landmark sites and historic districts.

After a landmark, landmark site or historic district has been so designated in accordance with this title, the commission may with consent of the owner cause to be prepared and erected on such property at city expense suitable plaques or signs recognizing the landmark.

(Ord. 999 §1(3)(b)(12), 1982).

17.12.040 Rescission of landmark designation.

- (a) If the person listed as owner of record of a landmark site at the time of its designation is unable to find a buyer willing to preserve the landmark or landmark site, such person may petition the commission for a rescission of its designation. Such petition shall contain an affidavit under oath that the person has made

reasonable attempts in good faith to find and attract such a buyer, as well as such further information deemed reasonably necessary by the commission for the purpose of evaluating the petition.

- (b) Following the filing of such petition, the owner and the commission shall work together for up to six months to try to locate a buyer for the subject property who is willing to comply with the designation. If at the end of six months no such buyer can be found, and if the owner still desires to obtain such rescission, the commission shall rescind its designation of the subject property.
- (c) In the event of rescission, the commission shall notify the city clerk, building inspector and assessor of same, and shall cause the rescission to be recorded at city expense in the Walworth County register of deeds.
- (d) 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 unless requested by the owner.
- (e) Before the landmarks commission explores a city owned property as a potential landmark, the commission shall notify the city manager with a notice of intent. The city manager shall then include the notice of the requested designation on the agenda of a common council meeting, that is held within thirty days of the notice, and provide the common council with its option to object to the designation under Section 17.12.020(5).

The common council shall not be required to act on the proposed designation; however, if at the meeting, a majority of the voting common council members vote to object to the designation, the landmarks commission shall dismiss the proposal.

(Ord. 999 §1(3)(b)(13), 1982).

(Ord. No. 1947A, § 1, 10-17-2017)

17.12.050 Maintenance.

- (a) Every person in charge of an improvement on a landmark site or in an historic district shall keep in good repair all of the exterior portions of such improvement and all interior portions which, if not so maintained, may cause or tend to cause the exterior portions of such improvement to fall into a state of disrepair. This subsection shall be in addition to all other provisions of law requiring buildings or structures to be well-maintained.
- (b) Insofar as they are applicable to a landmark, landmark site or improvement in an historic district, any provision of Title 14 of this code may be varied or waived, on application by the building inspector, provided such variance or waiver does not endanger public health or safety.

(Ord. 999 §1(7), 1982).

17.12.060 Voluntary restrictive covenants.

The owner of any landmark or landmark site may, at any time following such designation of his property, enter into a restrictive 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 landmark or landmark site, and the owner shall record such covenant in the office of the Walworth County or Jefferson County register of deeds depending on the site location and shall notify the city assessor of such covenant and the conditions thereof.

(Ord. 999 §1(6), 1982).

(Ord. No. 1733A, § 3, 6-2-2009)

17.12.065 Criteria for designation of historically significant personal property.

- (1) The landmarks commission may designate property as city-owned historically significant personal property if it is found by the landmarks commission to have special historic, archaeological or aesthetic character.
- (2) Upon designation of personal property as city-owned historically significant personal property, the landmarks commission may take reasonable actions to notify the general public and city officers and employees of the designation. These actions may include, but are not limited to, creating a registry of said property to be maintained by the city clerk, the labeling of the property by a placard or otherwise, or the safe storage of the property.
- (3) Any officer or employee of the City of Whitewater who becomes aware of any personal property that may qualify as city-owned historically significant personal property is encouraged to immediately notify the landmarks commission of the existence of said property.

(Ord. No. 1733A, § 4, 6-2-2009)

Chapter 17.16 CONSTRUCTION AND ALTERATION

Sections:

17.16.010 Building permit—Required.

No person shall alter, reconstruct, move or permit any alteration of any exterior or reconstruction or movement of any exterior portion of any landmark or landmark site or any property within an historic district unless the commission has approved such work. Unless the commission has approved such work, the building inspector shall not issue a building permit for such work.

(Ord. 999 §1(3)(b)(9)(2), 1982).

17.16.020 Building permit—Application—Referral to commission.

Within two weeks of receipt of an application for a building permit involving the exterior of a property which has been designated as a landmark or landmark site the building inspector shall refer such application to the commission.

(Ord. 999 §1(3)(b)(9)(b), 1982).

17.16.030 Building permit—Application—Determination by commission.

Upon the filing of an application, the commission shall determine whether the proposed work would destroy or deleteriously affect any feature of the landmark or landmark site, or be out of harmony with the external appearance of the site.

(Ord. 999 §1(3)(b)(9)(c), 1982).

17.16.040 Building permit—Issuance procedure.

The commission shall within thirty days of referral report to the building inspector either that the permit is denied or that the commission has no objection to the issuance of the permit. The commission may attach certain

conditions to the approval of the request. Review of denial of permits shall lie with the common council pursuant to this code and the Wisconsin Statutes. The applicant may appeal the decision to the city council for its determination.

(Ord. 999 §1(3)(b)(9)(d), 1982).

17.16.050 Building permit—Denial—Commission assistance to applicant.

In addition, if the commission 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 title.

(Ord. 999 §1(3)(b)(9)(e), 1982).

17.16.060 Criteria for existing structures.

"The Secretary of the Interior's Standards for Historic Preservation Projects" dated 1980 (rev.) shall apply to reconstruction and exterior alterations to existing structures. Those standards are as follows:

- (1) The distinguishing original qualities or character of a building, structure or site and its environment should not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.
- (2) All buildings, structures and sites should be recognized as products of their own time. Alterations which have no historical basis and which seek to create an earlier appearance shall be discouraged.
- (3) Changes which may have taken place in the course of time are evidence of the history and development in a building, structure or site and its environment. These changes may have acquired significance in their own right, and this significance should be recognized and respected.
- (4) Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure or site should be treated with sensitivity.
- (5) Deteriorated architectural features should be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historical physical or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.
- (6) The surface cleaning of structures should be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.
- (7) Every reasonable effort should be made to protect and preserve archeological resources affected by, or adjacent to, any acquisition, protection, stabilization, preservation, rehabilitation, restoration or reconstruction project.

(Ord. 999 §1(3)(b)(10)(a), 1982).

17.16.070 Criteria for new construction.

For new construction within a historic district, the following criteria shall apply:

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- (1) The mass, volume and setback of proposed structures should appear to be compatible with existing buildings in the immediate area.
 - (2) The facade of new structures should maintain a compatible relationship with those of existing structures in terms of window sill or header lines; proportion of window and door openings; horizontal or vertical emphasis of major building elements; and extent of architectural detail.
 - (3) The building materials and colors used should complement and be compatible with other buildings in the immediate area.
 - (4) The sizing, design and placement of signs should fit the building and the adjacent structures.
 - (5) All landscaping and parking provisions should complement and be compatible with improvements in the immediate area.

(Ord. 999 §1(3)(b)(10)(b), 1982).

17.16.080 Criteria for alteration or disposal of historically significant personal property.

Once personal property has been designated historically significant personal property by the landmarks commission, it shall not be altered or disposed of by the city without permission by the landmarks commission or, in the alternative, by action of the city council. Prior to authorizing the disposition or alteration of the historically significant personal property, the city council shall receive and consider the recommendation of the landmarks commission. The landmarks commission shall issue a recommendation within sixty days of a written request. If the landmarks commission fails to issue a recommendation within sixty days, the council may act on the request without considering the landmarks commission's recommendation.

(Ord. No. 1733A, § 5, 6-2-2009)

Chapter 17.20 DEMOLITION

Sections:

17.20.010 Building permit—Required.

No person shall demolish all or part of a landmark, improvement of a landmark site, or improvement in an 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.

(Ord. 999 §1(3)(b)(11)(2), 1982).

17.20.020 Building permit—Application.

When a person applies for a permit to demolish such property, such application shall also be filed with the commission.

(Ord. 999 §1(3)(b)(11)(b), 1982).

17.20.030 Building permit—Issuance.

At the end of twelve months, if no mutually agreeable method of saving the property is underway, or if no funds from any governmental unit or nonprofit organization have been granted to preserve the property, the building inspector may issue a permit without the approval of the commission.

(Ord. 999 §1(3)(b)(11)(c), 1982).

Chapter 17.24 APPEALS

Sections:

17.24.010 Generally.

An appeal of an action of the landmarks commission relating to designation of landmarks or creation of historic districts; the regulation of construction, reconstruction or exterior alteration; or the regulation of demolition may be initiated by filing a petition to appeal, specifying the grounds for such appeal, with the city clerk within ten days of the date on which the final decision of the landmarks commission is made. The city clerk shall file the petition to appeal with the city council. After a public hearing, the city council may, by a favorable vote of two-thirds of its members, reverse or modify the decision of the landmarks commission. In modifying or reversing a decision of the landmarks commission, the city council shall find that owing to special conditions the decision of the landmarks commission would cause serious hardship to the property owner or preclude reasonable use of the property. Self-created hardship or expectation of increased economic return shall not be the basis for modifying or reversing a decision of the landmarks commission.

(Ord. 999 §1(8), 1982).