

10. CERTIFICATE OF APPROPRIATENESS. a. Issuance. a-1. If, after the board's review or a hearing, when necessary, the board determines that the application is consistent with the character of the district and the design guidelines, the applicant shall be notified of the board's decision and the board shall issue a certificate of appropriateness.

a-2. If, after review, an application is denied by the board, the board may, at its discretion, issue a certificate of appropriateness, provided the applicant agrees to make changes in the plan as specified by the board.

b. Notification. If, after a hearing, the application is denied, the board shall notify the applicant of its decision by certified mail, return receipt requested, within 15 days of its decision. The board shall set forth and record findings which constitute the basis for its decision. All decisions of the board shall be filed with the commissioners of building inspection and city development.

c. Appeal. Applicants may appeal to the common council. Appeals shall be in the form of a written request filed with the city clerk within 30 days after the mailing of the certified letter containing the board's decision. The city clerk shall file the appeal with the common council. The council shall hold a public hearing on the appeal and may, by a majority vote of its members, reverse or modify the decision of the board. Any appeal by the applicant of the common council's decision shall be in the nature of certiorari and shall be made to the court within 30 days from the date that the common council's action is final.

11. OTHER PERMITS AND APPROVALS REQUIRED. The issuance of a certificate of appropriateness shall not relieve the applicant from obtaining other necessary permits and approvals required by the city. All other ordinances, rules and regulations of the city remain applicable.

12. COMPLIANCE WITH CERTIFICATES OF APPROPRIATENESS. a. Within 12 months of the issuance of the certificate of appropriateness, work on the project must begin and shall at all times be in compliance with the certificate, or the certificate shall be subject to revocation by the board.

b. Failure to comply with a certificate of appropriateness shall be a violation of this section. In the event work is being performed without, or not in accordance with, the required certificate of appropriateness, the board shall request that a stop work order be issued by the commissioner of building inspection.

13. MAINTENANCE AND REPAIR. To prevent the demolition or destruction, through neglect or vandalism, of a building, structure or site in the district, owners of property in the district shall keep both the interior and exterior portions of their properties in good repair and prevent their deterioration in accordance with ch. 275.

14. EXCEPTIONS. Ordinary maintenance and repair of buildings, structures or sites may be undertaken without a certificate of appropriateness, provided that the work involves maintenance or repair of existing features of a building or structure or the replacement of elements of a building or structure with pieces identical in appearance and provided that the work does not change the exterior appearance and does not require the issuance of a building permit.

15. VIOLATIONS. a. Whenever the commissioner of building inspection determines that a violation of this section exists or has reasonable grounds to believe that such a violation exists, the commissioner is authorized to order the owner to correct the violation or issue a stop work order, if requested, as provided in sub. 12-b.

b. Any person violating any provision of this section shall be subject to the penalties under s. 200-19.

***308-81. Historic Preservation Commission.**

1. PURPOSE AND INTENT. Pursuant to s. 62.23(7)(em), Wis. Stats., it is hereby declared a matter of public policy that the protection, enhancement, perpetuation, and use of improvements of special architectural 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 section is to:

a. Effect and accomplish the protection, enhancement, and perpetuation of such improvements and of districts which represent or reflect elements of the city's cultural, social, economic, political and architectural history.

b. Safeguard the city's historic and cultural heritage, as embodied and reflected in such landmarks and historic districts.

c. Stabilize and improve property values.

d. Foster civic pride in the beauty and noble accomplishments of the past.

e. Protect and enhance the city attractions to residents, tourists and visitors, and serve as a support and stimulus to business and industry.

f. Relate municipal programs in preserving housing and revitalizing commercial areas to the objectives of historic and architectural preservation.

g. Educate the public regarding the desirability of landmark designation and historic preservation as an enhancement of the quality of life.

h. Aid and assist individuals and public entities in the nomination of their properties to the national register of historic places.

1.5. EXEMPTION. This section shall not apply to the district specified in s. 308-71, except that the city may, with the concurrence of the architectural review board, designate the district as an historic district solely for the regulation of demolition permits in the district.

2. DEFINITIONS. The definitions shall be as follows unless the context requires otherwise:

a. **Alteration.** Any material change in the external architectural features of any historic structure or structures within a historic site or district.

b. **Certificate of appropriateness.** A certificate issued by the commission approving construction, reconstruction, rehabilitation or demolition of a historic structure or structures within a historic site or district.

c. **Commission.** The historic preservation commission is created under this section.

d. **Demolition.** The complete or partial removal or destruction of any historic structure or any structure located within a historic district or site.

e. **Historic, architectural and cultural significance.** The attributes of a district, site or structure that possess integrity of location, design, settings, materials, workmanship and association which consider the following:

e-1. Its exemplification and development of the cultural, economic, social or historic heritage of the city of Milwaukee, state of Wisconsin or the United States.

e-2. Its location as a site of a significant historic event.

e-3. Its identification with a person or persons who significantly contributed to the culture and development of the city of Milwaukee.

e-4. Its portrayal of the environment of a group of people in an era of history characterized by a distinctive architectural style.

e-5. Its embodiment of distinguishing characteristics of an architectural type or specimen.

e-6. Its identification as the work of an artist, architect, craftsmen or master builder whose individual works have influenced the development of the city of Milwaukee.

e-7. Its embodiment of elements of architectural design, detail, materials or craftsmanship which represent a significant architectural innovation.

e-8. Its relationship to other distinctive areas which are eligible for preservation according to a plan based on a historic, cultural or architectural motif.

e-9. Its unique location as a singular physical characteristic which represents an established and familiar visual feature of a neighborhood, community or the city of Milwaukee.

f. **Historic district.** Contains improvements which:

f-1. Have historical, architectural or cultural significance or value as defined in sub. 2-d; and

f-2. Represent one or more periods or styles of architecture typical of one or more eras in the history of the city; and

f-3. Cause such area, by reason of such factors, to constitute a distinct section of the city; and

f-4. Has been designated as a historic district by the common council.

g. **Historic site** means the real property:

g-1. On which a structure having historical significance is located; or

g-2. On which there is no structure, but which itself is of historical significance that has substantial value in tracing the history of aboriginal man, or upon which a historic event has occurred; or

1.5. EXEMPTION. This section shall not apply to the district specified in s. 308-71, except that the city may, with the concurrence of the architectural review board, designate the district as an historic district solely for the regulation of demolition permits in the district.

2. DEFINITIONS. The definitions shall be as follows unless the context requires otherwise:

a. Alteration. Any material change in the external architectural features of any historic structure or structures within a historic site or district.

b. Certificate of appropriateness. A certificate issued by the commission approving construction, reconstruction, rehabilitation or demolition of a historic structure or structures within a historic site or district.

c. Commission. The historic preservation commission created under this section.

d. Demolition. The complete or partial removal or destruction of any historic structure or any structure located within a historic district or site.

e. Historic, architectural and cultural significance. The attributes of a district, site or structure that possess integrity of location, design, settings, materials, workmanship and association which consider the following:

e-1. Its exemplification and development of the cultural, economic, social or historic heritage of the city of Milwaukee, state of Wisconsin or the United States.

e-2. Its location as a site of a significant historic event.

e-3. Its identification with a person or persons who significantly contributed to the culture and development of the city of Milwaukee.

e-4. Its portrayal of the environment of a group of people in an era of history characterized by a distinctive architectural style.

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e-8. Its relationship to other distinctive areas which are eligible for preservation according to a plan based on a historic, cultural or architectural motif.

e-9. Its unique location as a singular physical characteristic which represents an established and familiar visual feature of a neighborhood, community or the city of Milwaukee.

f. Historic district. Contains improvements which:

f-1. Have historical, architectural or cultural significance or value as defined in sub. 2-e; and

f-2. Represent one or more periods or styles of architecture typical of one or more eras in the history of the city; and

f-3. Cause such area, by reason of such factors, to constitute a distinct section of the city; and

f-4. Has been designated as a historic district by the common council.

g. Historic site means the real property:

g-1. On which a structure having historical significance is located; or

g-2. On which there is no structure, but which itself is of historical significance that has substantial value in tracing the history of aboriginal man, or upon which a historic event has occurred; or

g-3. Has been designated a historic site by the common council.

h. 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 by the common council.

i. Improvements. Any building, structure, place, work of art, or other object constituting a physical betterment of real property, or any part of such betterment.

j. Rehabilitation. Improving property through repair or alteration, making possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic, architectural and cultural values.

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3. MEMBERS. a. The commission shall be composed of 7 members. One shall be a registered architect; one shall be either an historian or an architectural historian, either interested in the field of historic preservation; one shall be a person experienced in either real estate development or real estate financing; one shall be a member of the common council and 3 shall be citizen members. Each member shall have, to the highest extent practicable, known interest in preservation. Members shall be appointed by the mayor subject to confirmation by the common council. Members shall be appointed for terms of 3 years.

b. Members of the commission shall have been a resident of the city for at least one year immediately preceding appointment. Members may be reappointed for succeeding terms and each member shall serve until his or her successor has been named and qualified. Any member may be removed for just cause by the mayor upon notice and public hearing. When any member is removed or resigns, or when a vacancy occurs, the mayor shall appoint a new member in the same manner prescribed in par. a. Commission members shall receive no compensation.

4. RULES OF THE COMMISSION. The commission shall elect from its membership a chairman and a vice chairman whose terms of office shall be fixed by the commission. The chairman shall preside over the commission meetings and hearings and have the right to vote. The vice chairman shall in all cases of absence of the chairman perform the duties of the chairman. The commission shall adopt rules of procedure for the transaction of its business. The commission shall adopt as part of its rules, guidelines for recommending the redesignation of previous landmarks. The commission shall adopt as part of its rules that meetings be held at least monthly throughout the year.

5. EXECUTIVE SECRETARY AND STAFF. Employees serving the commission shall be employees of the city and shall, unless exempted, be selected in accordance with city service rules and regulations. The commission shall appoint an executive secretary whose

qualifications shall be determined by the commission. Such executive secretary shall act as a secretary of such commission and may have such duties, powers, and responsibilities as may be from time to time delegated to him by the commission.

6. FINANCIAL SUPPORT. The commission shall act as a policymaking body when administering donations, grants, and other financial assistance from any public body or agency including but not limited to the city of Milwaukee, the county of Milwaukee, the state of Wisconsin, and the government of the United States and any of its agencies, and from any private individual or group, for the purpose of carrying out the functions, powers, and duties of the commission. The commission may, in accordance with the provisions of s. 16.05, city charter, obtain agreements and contracts with public or private agencies or individuals, for the purpose of assisting the commission in carrying out its functions, powers, and duties.

7. FUNCTIONS, POWERS, AND DUTIES. In addition to such other powers, duties and authority as are set forth in this section, the commission shall:

a. Maintain or cause to be maintained a comprehensive survey of sites, structures, and districts in the city identifying its historic, cultural, and architectural resources.

b. Prepare or cause to be prepared a current list of potential sites, structures, and districts as determined by the survey to be designated as historical, cultural or architectural sites, structures or districts.

c. Prepare or cause to be prepared a master plan based on the survey that will delineate a proper course of action for historic preservation planning in the city. Any amendments to the master plan shall be made only after consideration of the criteria set forth in this section.

d. Prepare or cause to be prepared when necessary measured drawings, photographs and appropriate documentation for sites and structures that are clearly endangered.

e. Recommend to the common council the designation of sites, structures, and districts as local historic sites, historic structures and historic districts. Once designated by the common council, such historic sites, structures and districts shall be subject to all provisions of this section, and the commissioner of city development shall file that designation in recordable form with the Milwaukee county register of deeds.

f. Issue certificates of appropriateness that will allow or deny the alteration, demolition or exterior change to any designated historic site or structure or improvement within a historic district.

g. Issue mothballing certificates to allow enforcement of the city's building maintenance and condemnation codes against historic structures to be stayed.

h. Other Duties. In addition to those duties already specified in this section, the commission shall:

h-1. Work closely with the state of Wisconsin historic preservation officer in attempting to include such properties designated as historic sites, structures or districts in the national register of historic places.

h-2. Work for the continuing education of the citizens of Milwaukee about the historic heritage of this city and the historic sites, structures and districts designated under this section.

h-3. Receive and solicit funds for the purpose of historic preservation in the city. Such funds shall be placed in a special city account for such purpose.

8. NOMINATION AND DESIGNATION OF HISTORIC SITES, STRUCTURES AND DISTRICTS. Any person may make application for nomination of a structure, site or area for historic designation to the commission. The commission shall contact the owner or owners of such real property of record and outline the reasons for and the effects of the designation on the structure, site or area under consideration.

a. Hearing. a-1. The commission shall schedule a public hearing on the question of the application for designation. Notice as to the time, place and purpose of the hearing shall be sent at least 25 days prior to the hearing to the following parties:

a-1-a. The owner of the subject property. This notice shall be by certified letter.

a-1-b. The city clerk and the common council member or members of the aldermanic district or districts in which the proposed designation is located.

a-1-c. All persons or corporations who own property that is within 200 feet of the proposed designation. This notice shall be first class mail.

a-2. Following the public hearing, the commission shall vote to make recommendations to the common council regarding the designation. A structure, site or area shall be deemed to be nominated for consideration as a historic structure, site or district when the commission has determined by a majority vote that the site, structure or area possesses one or more indicia of historical significance.

b. The commission shall make a recommendation with respect to the proposed designation in writing and shall notify the owner of the subject property and the common council. The commission shall set forth findings which constitute the basis for its recommendations. If the recommendations concern designation of a district, the commission shall consider and report in its findings the impact of designation on low and moderate income housing within the district.

c. The commission shall submit its recommendation for designation as a historic site, historic structure or historic district to the common council. The council in its decision on designation shall balance the interest of the public in preserving the affected property and the interest of the owner or owners in using the property for his or her purposes. If the council votes to approve the designation, the council's resolution shall by reference approve the study report for the proposed historic site, structure or district prepared by the historic preservation officer, including the preservation guidelines for the site, structure or district, subject to any modifications made to the report by the historic preservation commission or common council.

d. After the designation decision is final, the commission shall notify the owner of the subject property, the affected alderman, the commissioner of city development, the commissioner of public works, and the commissioner of neighborhood services. The commissioner of city development shall file, in recordable form, notice of the designation with the Milwaukee county register of deeds and shall cause such designation to be recorded.

e. In cases where the commission has nominated a site, structure or area for consideration for historic designation, final action, in accordance with this subsection, must be taken within 2 years of the date of nomination. If final action is not taken, the nomination of the site, structure or area is terminated.

f. Once a nomination for historic designation has been dismissed or denied, the same site, structure or area may not be renominated unless one of the following conditions is met:

f-1. Two years have passed since the nomination was dismissed or denied. In such cases, the renomination shall be considered a new nomination for the purposes of this section. In cases where a nomination is terminated pursuant to par. e, the 2 years shall be counted from the date of the termination.

f-2. The commission is presented with substantial new evidence that could not reasonably have been presented at the previous hearing. In such cases, this evidence, including photographs, shall be accompanied by an appropriate application form. No such renomination shall take place without the affirmative vote of a majority of the members of the commission.

f-3. All renominations shall be subject to the same notice requirements as the original public hearings.

8.5. AMENDMENTS TO ADOPTED GUIDELINES. For any designated historic site, structure or district, the common council may amend the preservation guidelines that it adopted at the time of designation of the site, structure or district pursuant to sub. 8-c. The procedure for amending the preservation guidelines shall be the same as the procedure for nomination and designation of historic sites, structures and districts, as set forth in sub. 8. The common council may amend preservation guidelines only after receiving a recommendation from the historic preservation commission.

9. REGULATION OF CONSTRUCTION, RECONSTRUCTION, REHABILITATION AND DEMOLITION. No owner, renter, occupant or person in charge of a historic site, historic structure or an improvement within a historic district shall reconstruct or alter all or any part of the exterior of such property or construct any improvement upon such a property or properties 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. Unless such certificate has been granted by the commission, the commissioner of city development shall not issue a permit for any such work.

a. **Application.** Applications for certificates of appropriateness shall be filed with the historic preservation officer, which certificate shall permit the applicant to proceed in accordance with this section. The historic preservation officer shall immediately forward all applications to the commission for recommendation and report.

b. **Review.** Upon receipt of an application from the historic preservation officer, the commission shall review the project at its next regular meeting. The commission may find the project appropriate and direct a certificate to be issued or it shall set a public hearing date within 30 days of its original review. When reviewing the certificate application, the commission shall consider:

b-1. Whether, in the case of a designated historic site, structure or district, the proposed work would detrimentally change, destroy or adversely affect any exterior architectural feature of the improvement upon which said work is to be done; and

b-2. Whether, in the case of construction of a new improvement upon a designated 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; and

b-3. Whether, in the case of any property located in a historic district the proposed construction, reconstruction, exterior alteration, or demolition conforms to the objectives of the historic preservation plan for such district as duly adopted by the common council.

c. Notification. Notice of hearing shall be by certified letter addressed to the applicant at his or her residence or place of business, or if the applicant is a corporation, at the address stated in the application. There shall also be public notice given by the commission, as well as notice to the parties cited in sub. 8-a. The letter to the applicant may contain requirements for supplemental information, including but not limited to any photographs, plans, floor plans, elevations and detail drawings of any structure or portion thereof to be subject to change. If the applicant is unable to furnish any or all required supplemental information by the date set for a hearing on the application, the applicant may request such a delay in the hearing as may be reasonable for obtaining the same. The commission may also grant a request for a delay for any other good cause.

d. Hearing. If upon a hearing by the commission it appears that the proposed changes in the application are consistent with the character of the individual property or those of its district, the commission shall immediately direct the commissioner of city development to issue a certificate to the applicant. In making its determination on any application under this section, the commission shall apply the criteria set forth in sub. 10.

e. Issuance of Certificate. The commission may, at its discretion, direct issuance of a certificate conditioned upon applicant's acceptance of certain changes in his plan.

f. Appeal. ~~If upon a hearing by the commission the application for a certificate is disapproved and no conditional certificate is issued, or the applicant refuses to accept the changes in the plans recommended by the commission, the commission shall notify the applicant of its decision by certified mail within 15 days. The aggrieved applicant may appeal to the common council. Appeals shall be by a written request filed with the city clerk within 20 days after the mailing of the certified letter to the applicant of the commission's decision. The city clerk shall file the request to appeal with the common council. After a public hearing, the council may, by vote of 2/3 of its members, reverse or modify the decision of the 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 or her own purposes, the council finds that, owing to special conditions pertaining to the specific piece of property, failure to grant the certificate of appropriateness will preclude any and all reasonable use of the property and/or will cause serious hardship for the owner, provided that any self-created hardship shall not be a basis for reversal of modification of the commission's decision.~~

g. Demolition. Notwithstanding the provisions of the preceding paragraphs, if an applicant for a certificate of appropriateness seeks approval for demolition, the commission may by affirmative vote within 30 days after the public hearing defer determination on the application for a period not to exceed one year from the date of application for the demolition permit, and shall provide the applicant with a written report setting forth the reason or reasons for its deferral on the certificate application. An applicant whose application for certification of appropriateness for demolition has been deferred may appeal the deferral to the common council. If the commission determines to defer a demolition on the application, the commission and the applicant shall undertake serious and continuing discussions for the purpose of finding a mutually agreeable method of saving the subject property. Furthermore, during this time, the owner shall take whatever steps are necessary to prevent further deterioration of the building. At the end of the one year period, the commission shall act on the suspended application by either granting or refusing to grant a certificate of appropriateness for the proposed demolition.

h. Certificate of Appropriateness. In determining whether to issue a certificate of appropriateness for any demolition, the commission shall consider and may give decisive weight to any or all of the following:

h-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 state.

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h-2. Whether the building or structure, although not itself an individually designated historic building, contributes to the distinctive architectural or historic character of the district as a whole and should be preserved for the benefit of the people of the city and the state.

h-3. Whether demolition of the subject property would be contrary to the purpose and intent of this section and to the objectives of the historic preservation plan for the applicable district as duly adopted by the common council.

h-4. Whether the building or structure is of such old and unusual or uncommon design, texture, and/or material that it could not be reproduced without great difficulty and/or expense.

h-5. 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, architecture, and design, or by developing an understanding of American culture and heritage.

h-6. Whether the building or structure is in such a deteriorated condition that it is not structurally or economically feasible to preserve or restore or use it, provided that any hardship or difficulty claimed by the owner which is self-created or which is the result of any failure to maintain the property in good repair cannot qualify as a basis for the issuance of a certificate of appropriateness.

h-7. Whether any new structure proposed to be constructed, or change in use proposed to be made, is compatible with the buildings and character of the district in which the subject property is located.

i. Enforcement and Penalties.

i-1. Any violations of this section shall be subject to the building code enforcement provisions of s. 200-11-3 and s. 200-12-1 and the penalty provisions of s. 200-19. The commissioner of neighborhood services shall be responsible for enforcement of this section.

i-2. The historic preservation commission is authorized to hear appeals of orders issued pursuant to this section that require owners to restore their properties to their original condition, to apply for certificates of appropriateness or to comply with the terms of a previously granted certificate of appropriateness. Appeals shall be by a written

request filed with the commission within 20 days of the date of the service of the order. If service of the order is made by mail, any appeal of the order shall be made in writing within 30 days of the date of the order. The commission may reverse or revise, in whole or in part, any order which a 2/3 majority of its members find an unreasonable hardship on a property owner. No hardship created by an order shall serve as a basis for reversing or revising an order. The commission shall notify the owner of its decision within 15 days.

j. Compliance. Insofar as they are applicable to a historic structure, historic site, or improvements in a historic district designated under this section, any provision of the plumbing code, electrical code, or building and housing code of the city of Milwaukee shall apply, unless waived by the appropriate state or city officials. The commission may support or propose such waivers before the appropriate state or city appeals bodies.

10. GUIDELINES FOR REHABILITATION. In determining whether to issue a certificate of appropriateness for rehabilitation, the commission shall consider and may give decisive weight to any or all of the following:

a. Every reasonable effort shall be made to provide a compatible use for a property which requires minimal alteration of the exterior of a building, structure or site and its environment.

b. The distinguishing original qualities or character of a building, structure or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.

c. All buildings, structures, and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier or later appearance shall be discouraged.

d. Changes which 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. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.

e. In cases where the commission has nominated a site, structure or area for consideration for historic designation, final action, in accordance with this subsection, must be taken within 2 years of the date of nomination. If final action is not taken, the nomination of the site, structure or area is terminated.

f. Once a nomination for historic designation has been dismissed or denied, the same site, structure or area may not be renominated unless one of the following conditions is met:

f-1. Two years have passed since the nomination was dismissed or denied. In such cases, the renomination shall be considered a new nomination for the purposes of this section. In cases where a nomination is terminated pursuant to par. e, the 2 years shall be counted from the date of the termination.

f-2. The commission is presented with substantial new evidence that could not reasonably have been presented at the previous hearing. In such cases, this evidence, including photographs, shall be accompanied by an appropriate application form. No such renomination shall take place without the affirmative vote of a majority of the members of the commission.

f-3. All renominations shall be subject to the same notice requirements as the original public hearings.

8.5. AMENDMENTS TO ADOPTED GUIDELINES. For any designated historic site, structure or district, the common council may amend the preservation guidelines that it adopted at the time of designation of the site, structure or district pursuant to sub. 8-c. The procedure for amending the preservation guidelines shall be the same as the procedure for nomination and designation of historic sites, structures and districts, as set forth in sub. 8. The common council may amend preservation guidelines only after receiving a recommendation from the historic preservation commission.

9. REGULATION OF CONSTRUCTION, RECONSTRUCTION, REHABILITATION AND DEMOLITION. No owner, renter, occupant or person in charge of a historic site, historic structure or an improvement within a historic district shall reconstruct or alter all or any part of the exterior of such property or construct any improvement upon such a property or

properties 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. Unless such certificate has been granted by the commission, the commissioner of city development shall not issue a permit for any such work.

a. Application. Applications for certificates of appropriateness shall be filed with the historic preservation officer, which certificate shall permit the applicant to proceed in accordance with this section. The historic preservation officer shall immediately forward all applications to the commission for recommendation and report.

b. Review. Upon receipt of an application from the historic preservation officer, the commission shall review the project at its next regular meeting. The commission may find the project appropriate and direct a certificate to be issued or it shall set a public hearing date within 30 days of its original review. When reviewing the certificate application, the commission shall consider:

b-1. Whether, in the case of a designated historic site, structure or district, the proposed work would detrimentally change, destroy or adversely affect any exterior architectural feature of the improvement upon which said work is to be done; and

b-2. Whether, in the case of construction of a new improvement upon a designated 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; and

b-3. Whether, in the case of any property located in a historic district the proposed construction, reconstruction, exterior alteration, or demolition conforms to the objectives of the historic preservation plan for such district as duly adopted by the common council.

c. Notification. Notice of hearing shall be by certified letter addressed to the applicant at his or her residence or place of business, or if the applicant is a corporation, at the address stated in the application. There shall also be public notice given by the commission, as well as notice to the parties cited in sub. 8-a. The letter to the applicant may contain requirements for supplemental information, including but not limited to any photographs,

plans, floor plans, elevations and detail drawings of any structure or portion thereof to be subject to change. If the applicant is unable to furnish any or all required supplemental information by the date set for a hearing on the application, the applicant may request such a delay in the hearing as may be reasonable for obtaining the same. The commission may also grant a request for a delay for any other good cause.

d. Hearing. If upon a hearing by the commission it appears that the proposed changes in the application are consistent with the character of the individual property or those of its district, the commission shall immediately direct the commissioner of city development to issue a certificate to the applicant. In making its determination on any application under this section, the commission shall apply the criteria set forth in sub. 10.

e. Issuance of Certificate. The commission may, at its discretion, direct issuance of a certificate conditioned upon applicant's acceptance of certain changes in his plan.

f. Appeal. If upon a hearing by the commission the application for a certificate is disapproved and no conditional certificate is issued, or the applicant refuses to accept the changes in the plans recommended by the commission, the commission shall notify the applicant of its decision by certified mail within 15 days. The aggrieved applicant may appeal to the common council. Appeals shall be by a written request filed with the city clerk within 20 days after the mailing of the certified letter to the applicant of the commission's decision. The city clerk shall file the request to appeal with the common council. After a public hearing, the council may, by vote of 2/3 of its members, reverse or modify the decision of the 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 or her own purposes, the council finds that, owing to special conditions pertaining to the specific piece of property, failure to grant the certificate of appropriateness will preclude any and all reasonable use of the property and/or will cause serious hardship for the owner, provided that any self-created hardship shall not be a basis for reversal of modification of the commission's decision.

g. Demolition. Notwithstanding the provisions of the preceding paragraphs, if an applicant for a certificate of appropriateness seeks approval for demolition, the commission may by affirmative vote within 30 days after the public hearing defer determination on the application for a period not to exceed one year from the date of application for the demolition permit, and shall provide the applicant with a written report setting forth the reason or reasons for its deferral on the certificate application. An applicant whose application for certification of appropriateness for demolition has been deferred may appeal the deferral to the administrative review appeals board pursuant to s. 320-11. If the commission determines to defer a demolition on the application, the commission and the applicant shall undertake serious and continuing discussions for the purpose of finding a mutually agreeable method of saving the subject property. Furthermore, during this time, the owner shall take whatever steps are necessary to prevent further deterioration of the building. At the end of the one year period, the commission shall act on the suspended application by either granting or refusing to grant a certificate of appropriateness for the proposed demolition.

h. Certificate of Appropriateness. In determining whether to issue a certificate of appropriateness for any demolition, the commission shall consider and may give decisive weight to any or all of the following:

h-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 state.

h-2. Whether the building or structure, although not itself an individually designated historic building, contributes to the distinctive architectural or historic character of the district as a whole and should be preserved for the benefit of the people of the city and the state.

h-3. Whether demolition of the subject property would be contrary to the purpose and intent of this section and to the objectives of the historic preservation plan for the applicable district as duly adopted by the common council.

h-4. Whether the building or structure is of such old and unusual or uncommon design, texture, and/or material that it could not be reproduced without great difficulty and/or expense.

12. **MOTHBALLING CERTIFICATE.** To prevent demolition of structures which should be left standing because of their historic significance, the historic preservation commission may grant the mothballing certificate required by s. 200-11.5 to allow the commissioner of neighborhood services to stay enforcement of property maintenance and condemnation codes against structures which have been designated local or national historic structures or which are part of local or national historic sites or districts.

a. **Application.** The owner of any structure with local or national historic designation may file an application for a mothballing certificate with the historic preservation officer, who shall immediately forward the application to the commission for recommendation and report. Application for a mothballing certificate may not be made for any structure which the commissioner of neighborhood services has determined poses an immediate threat to public health and safety.

b. **Hearing.** The commission shall schedule a public hearing on a request for a mothballing certificate within 30 days of its receipt of the application for such certificate. Notice of the time, place and purpose of the hearing shall be sent by regular mail to the applicant at the address stated on the application and to all owners of property within 200 feet of the property containing the structure to which the mothballing certificate would apply. Such notice shall be given at least 10 days prior to the hearing. The notice to the applicant shall also specify that the applicant is required to furnish a rehabilitation plan to the commission on or before the date of the hearing. The notice may require that the plan include one or more of the following: floor plans, detail drawings, elevations, photographs, and information on sources of financing and contractors and materials to be used. The plan shall specify a tentative time line for completion of the project or its various phases.

c. **Commission Findings.** After conducting the public hearing, the commission shall grant a mothballing certificate if it finds that the applicant has developed a plan for the rehabilitation of the structure which is consistent with the rehabilitation guidelines of sub. 10, which is within the financial means of the applicant, and which will be carried out

within a reasonable period of time. The commission shall also determine that issuance of a mothballing certificate will not have a detrimental impact on nearby properties and the surrounding neighborhood. As a condition for granting such certificate, the commission may set any requirements which it deems appropriate. The commission shall notify the applicant of its decision within 15 days of the hearing.

d. **Upkeep of Premises.** The premises upon which a structure with a valid mothballing certificate is located shall be maintained in such a manner that adjacent sidewalks are kept clean of dirt and snow, lawns, trees and shrubs are suitably mowed and trimmed, and the grounds are free of litter, debris, junk cars and outdoor storage and nuisances of all types. The interior of the building shall be protected from the elements.

e. **Periodic Review.** A mothballing certificate shall be valid for the period of time deemed appropriate by the commission. Such certificate shall be reviewed by the commission within 6 months of the date of original issuance and every 6 months thereafter. Notice of the review shall be given to the certificate holder and area property owners using the procedure described in par. b. At least 10 days prior to each review date, the certificate holder shall provide the commission with a written report on progress that has been made in implementing the rehabilitation plan during the past 6 months. When reviewing a mothballing certificate, the commission shall evaluate the progress the certificate holder has made towards implementing or completing the rehabilitation project, or the progress that the certificate holder has made in obtaining the necessary financing for such project. The commission shall also consider the extent to which the certificate holder has complied with the provisions of this subsection and with any special conditions the commission placed on the certificate at the time it was issued. The commission may add conditions to a certificate, remove conditions from the certificate, or revoke the certificate after any periodic review of the certificate.

f. **Appeal.** If, upon a hearing by the commission, the application for a mothballing certificate is denied, the conditions attached to an approved mothballing certificate are

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unacceptable to the applicant, or a mothballing certificate is revoked by the commission, the applicant may appeal the commission's decision to the common council. Appeals shall be by written request filed with the city clerk within 20 days after the mailing of the certified letter to the applicant of the commission's decision. The city clerk shall file the appeal request with the common council. After a public hearing, the council may, by vote of 2/3 of its members, reverse or modify the decision of the commission if it finds that doing so would:

f-1. Serve the interest of the public by preserving an historic structure.

f-2. Not negatively impact the surrounding neighborhood.

f-3. Relieve the property owner of unreasonable conditions placed on the issuance of the mothballing certificate or hardships relating to implementation of the rehabilitation plan which are not self-created.

g. Revocation. If the department of neighborhood services or any owner or owners of property within 200 feet of a property with a currently valid mothballing certificate files a written petition with the commission requesting revocation of such certificate and stating the reasons for such request, the commission shall consider revocation of the certificate at its next regularly scheduled meeting which is at least 15 days from the date of receipt of the petition. Notice of the request for certificate revocation, along with the time and place of the commission meeting at which revocation will be considered, shall be sent to the certificate holder by certified mail at least 10 days prior to such meeting.

13. CERTAIN CHANGES NOT PROHIBITED. Nothing contained in this section shall prohibit the making of any change of any exterior or architectural feature on a designated historic site, historic structure or in a historic district pursuant to the order of any governmental agency or pursuant to any court judgment for the purpose of remedying emergency conditions determined to be dangerous to life, health, or property.

15. CERTIFICATE REQUIRED FOR FORMER LANDMARK STRUCTURES. Any building, structure or site which had been declared as a landmark by the former landmarks commission shall be subject to the procedures of sub. 9 for reconstruction, rehabilitation or demolition on or prior to May 1, 1982.

e. **Appeal Bond Required.** Any person desiring to appeal a commission decision, in accordance with par. d, shall, within the time specified in par. d, file with the city clerk a bond in the penal form of \$10,000, which shall be approved by the city comptroller as to sufficiency of surety and by the city attorney as to its form and execution. The bond shall insure that the person or persons taking the appeal shall pay to the owner or owners of the subject structure any or all damages which may be sustained by the owner or owners as a result of the delay caused by an appeal which does not result in the common council's reversal of the commission's decision denying interim designation.

f. **Common Council Review.** If, after holding the hearing set forth in par. a, the commission determines to designate, on an interim basis, the subject structure, the owner or owners of said structure may, within 5 days of the commission's decision, file a duly signed and acknowledged appeal petition with the city clerk for review of the commission's decision by the common council. The common council shall review the commission's decision within 45 days after the receipt by the city clerk of the appeal petition. The common council may then, after balancing the interest of the public in preserving the affected structure and the interest of the owner or owners for using the property for his or her own purposes, reverse or affirm the commission's decision on interim designation. If the common council reverses the decision on interim designation, the commissioner of city development may then issue any permits duly applied for pursuant to s. 200-26-1. The city clerk shall immediately notify the department of neighborhood services and the department of city development of the common council's appeal decision. The commission shall not entertain another petition for a hearing on the subject structure under par. a until 180 days after the common council's reversal of the commission's prior interim designation decision.

g. **Recommendation.** The interim designation of a structure shall be for a period not to exceed 180 days. Within 90 days of the date of the initiation of the interim designation, the commission shall hold the hearing described in sub. 8-a regarding the structure and forward its recommendations to the common council. During the period of interim designation, which

shall run for 180 days except in cases where the common council has taken final action on the commission's recommendation of the structure prior to 180 days, sub. 9 shall apply to the subject structure. The interim designation of any structure shall immediately be terminated if, while the interim designation is in effect, the historic preservation commission decides, pursuant to sub. 8, not to designate the same structure as historic.

11. **SUPERVISION OF CERTIFICATE.** The commissioner of neighborhood services or the commissioner's appointed representative shall periodically inspect any undertaking authorized by a certificate of appropriateness. If the commissioner shall detect any violation of the conditions or standards prescribed in the certificate, or any uncertified change of any structure, the commissioner shall report such violations to the commission and take appropriate action under ss. 200-11-3, 200-12-1 and 200-19.

12. **MOTHBALLING CERTIFICATE.** To prevent demolition of structures which should be left standing because of their historic significance, the historic preservation commission may grant the mothballing certificate required by s. 200-11.5 to allow the commissioner of neighborhood services to stay enforcement of property maintenance and condemnation codes against vacant structures which have been designated local or national historic structures or which are part of local or national historic sites or districts.

a. **Application.** The owner of any vacant structure with local or national historic designation may file an application for a mothballing certificate with the historic preservation officer, who shall immediately forward the application to the commission for recommendation and report. Application for a mothballing certificate may not be made for any structure which the commissioner of neighborhood services has determined poses an immediate threat to public health and safety.

b. **Hearing.** The commission shall schedule a public hearing on a request for a mothballing certificate within 30 days of its receipt of the application for such certificate. Notice of the time, place and purpose of the hearing shall be sent by regular mail to the applicant at the address stated on the application and to all owners of property within 200 feet of the property containing the

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structure to which the mothballing certificate would apply. Such notice shall be given at least 10 days prior to the hearing. The notice to the applicant shall also specify that the applicant is required to furnish a rehabilitation plan to the commission on or before the date of the hearing. The notice may require that the plan include one or more of the following: floor plans, detail drawings, elevations, photographs, and information on sources of financing and contractors and materials to be used. The plan shall specify a tentative time line for completion of the project or its various phases.

c. Commission Findings. After conducting the public hearing, the commission shall grant a mothballing certificate if it finds that the applicant has developed a plan for the rehabilitation of the structure which is consistent with the rehabilitation guidelines of sub. 10, which is within the financial means of the applicant, and which will be carried out within a reasonable period of time. The commission shall also determine that issuance of a mothballing certificate will not have a detrimental impact on nearby properties and the surrounding neighborhood. As a condition for granting such certificate, the commission may set any requirements which it deems appropriate. The commission shall notify the applicant of its decision within 15 days of the hearing.

d. Upkeep of Premises. The premises upon which a structure with a valid mothballing certificate is located shall be maintained in such a manner that adjacent sidewalks are kept clean of dirt and snow, lawns, trees and shrubs are suitably mowed and trimmed, and the grounds are free of litter, debris, junk cars and outdoor storage and nuisances of all types. The interior of the building shall be protected from the elements.

e. Periodic Review. A mothballing certificate shall be valid for the period of time deemed appropriate by the commission. Such certificate shall be reviewed by the commission within 6 months of the date of original issuance and every 6 months thereafter. Notice of the review shall be given to the certificate holder and area property owners using the procedure described in par. b. At least 10 days prior to each review date, the certificate holder shall provide the commission with a written report on progress that has been made in implementing the rehabilitation plan during the

past 6 months. When reviewing a mothballing certificate, the commission shall evaluate the progress the certificate holder has made towards implementing or completing the rehabilitation project, or the progress that the certificate holder has made in obtaining the necessary financing for such project. The commission shall also consider the extent to which the certificate holder has complied with the provisions of this subsection and with any special conditions the commission placed on the certificate at the time it was issued. The commission may add conditions to a certificate, remove conditions from the certificate, or revoke the certificate after any periodic review of the certificate.

f. Appeal. If, upon a hearing by the commission, the application for a mothballing certificate is denied, the conditions attached to an approved mothballing certificate are unacceptable to the applicant, or a mothballing certificate is revoked by the commission, the applicant may appeal the commission's decision to the common council. Appeals shall be by written request filed with the city clerk within 20 days after the mailing of the certified letter to the applicant of the commission's decision. The city clerk shall file the appeal request with the common council. After a public hearing, the council may, by vote of 2/3 of its members, reverse or modify the decision of the commission if it finds that doing so would:

f-1. Serve the interest of the public by preserving an historic structure.

f-2. Not negatively impact the surrounding neighborhood.

f-3. Relieve the property owner of unreasonable conditions placed on the issuance of the mothballing certificate or hardships relating to implementation of the rehabilitation plan which are not self-created.

g. Revocation. If the department of neighborhood services or any owner or owners of property within 200 feet of a property with a currently valid mothballing certificate files a written petition with the commission requesting revocation of such certificate and stating the reasons for such request, the commission shall consider revocation of the certificate at its next regularly scheduled meeting which is at least 15 days from the date of receipt of the petition. Notice of the request for certificate revocation, along with the time and place of the commission meeting at which revocation will be considered, shall be sent to the certificate holder by certified mail at least 10 days prior to such meeting.

13. CERTAIN CHANGES NOT PROHIBITED. Nothing contained in this section shall prohibit the making of any change of any exterior or architectural feature on a designated historic site, historic structure or in a historic district pursuant to the order of any governmental agency or pursuant to any court judgment for the purpose of remedying emergency conditions determined to be dangerous to life, health, or property.

14. ADMINISTRATIVE REVIEW APPEALS BOARD. Any person or any city officer, department or board aggrieved by any decision of the commission made under the provisions of this section may appeal said decision to the administrative review appeals board pursuant to s. 320-11.

15. CERTIFICATE REQUIRED FOR FORMER LANDMARK STRUCTURES. Any building, structure or site which had been declared as a landmark by the former landmarks commission shall be subject to the procedures of sub. 9 for reconstruction, rehabilitation or demolition on or prior to May 1, 1982.