



## Legislation Details (With Text)

**File #:** 160144 **Version:** 0

**Type:** Ordinance **Status:** Passed

**File created:** 5/24/2016 **In control:** COMMON COUNCIL

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**Effective date:**

**Title:** An ordinance relating to common council reversal and modification of historic preservation commission decisions.

**Sponsors:** THE CHAIR

**Indexes:** HISTORIC PRESERVATION

**Attachments:** 1. Hearing Notice List, 2. Notice Published on 6-30-16

Date	Ver.	Action By	Action	Result	Tally
5/24/2016	0	COMMON COUNCIL	ASSIGNED TO		
6/1/2016	0	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	HEARING NOTICES SENT		
6/1/2016	0	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	HEARING NOTICES SENT		
6/7/2016	0	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	RECOMMENDED FOR PASSAGE	Pass	5:0
6/14/2016	0	COMMON COUNCIL	PASSED	Pass	14:0
6/22/2016	0	MAYOR	SIGNED		
6/30/2016	0	CITY CLERK	PUBLISHED		

160144  
ORIGINAL

### THE CHAIR

An ordinance relating to common council reversal and modification of historic preservation commission decisions.

320-21-9-j am

320-21-11-L-0 am

320-21-15-f-0 am

This ordinance amends the Common Council vote needed to reverse or modify a decision by the Historic Preservation Commission from a 2/3 to simple majority, in compliance with Wisconsin statutes.

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Section 320-21-9-j of the code is amended to read:

### 320-21. Historic Preservation Commission.

### 9. NOMINATION AND DESIGNATION OF HISTORIC SITES, STRUCTURES AND DISTRICTS.

j. If, upon conclusion of its public hearing on a nomination for historic designation, the commission denies the request for historic designation, the applicant or local common council member may appeal the commission's decision to the common council by filing a written request with the city clerk within 20 days after the mailing of the notice of the commission's decision. The city clerk shall file the appeal with the common council. After a public hearing at the next regularly-scheduled meeting of the appropriate common council committee, the council may, by ~~majority~~ vote of ~~[[2/3 of its members]]~~ >>the common council<<, reverse the decision of the commission after weighing the findings of the commission, the criteria for determining historic, architectural or cultural significance provided in sub. 3-e, and the interest of the public in preserving the subject structure, site or district.

Part 2. Section 320-21-11-L-0 of the code is amended to read:

## **11. REGULATION OF ALTERATION, RECONSTRUCTION, REHABILITATION, CONSTRUCTION AND DEMOLITION.**

L. Appeal. If, upon a hearing by the commission, the application for a certificate is denied or the certificate is granted conditionally and the applicant refuses to accept the conditions placed on the granting of the certificate, the applicant may appeal the denial or conditional granting of the certificate to the common council by filing a written request 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 at the next regularly-scheduled meeting of the appropriate common council committee, the council may, by ~~majority~~ vote of ~~[[2/3 of its members]]~~ >>the common council<<, 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 concerning to the specific piece of property, failure to grant the certificate of appropriateness will preclude any and all reasonable use of the property or will cause unreasonable economic hardship for the owner, provided that any self-created hardship or failure to maintain the property in good repair shall not be a basis for reversal or modification of the commission's decision. If claiming that denial of the certificate or the conditional approval of the certificate causes unreasonable economic hardship for the owner, the applicant shall provide clear and convincing evidence that any hardship is not self-created or the result of failure to maintain the property in good repair, that there is no reasonable use for the property, that there is no reasonable way to adapt the property for alternative use, and that there has been no reasonable offer to purchase the property despite at least 2 years of ongoing substantial effort to sell the property other than an owner-occupied one- or 2-unit residential property, the applicant shall provide the following information to the city clerk not less than 5 days prior to the public hearing:

Part 3. Section 320-21-15-f-0 of the code is amended to read:

## **15. MOTHBALLING 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 ~~majority~~ vote of ~~[[2/3 of its members]]~~ >>the common council<<, reverse or modify the decision

of the commission if it finds that doing so would:

APPROVED AS TO FORM

\_\_\_\_\_  
Legislative Reference Bureau

Date: \_\_\_\_\_

IT IS OUR OPINION THAT THE ORDINANCE  
IS LEGAL AND ENFORCEABLE

\_\_\_\_\_  
Office of the City Attorney

Date: \_\_\_\_\_

City Attorney  
LRB #164428-1  
Aaron Cadle  
May 23, 2016