

320-21. Historic Preservation Commission.

1. PURPOSE AND INTENT. Pursuant to s. 62.23(7)(em), Wis. Stats., it is 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 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.

2. EXEMPTION. This section shall not apply to the district specified in s. 200-61, 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.

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

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

b. "Certificate of appropriateness" means a certificate issued by the commission for any of the following actions:

b-1. The alteration, reconstruction, or rehabilitation of a historic structure or a structure within a historic site or district.

b-2. The partial or complete demolition of a historic structure or structure within a historic site or district.

b-3. The construction of any improvement on a historic site, on a parcel that contains a historic structure, or on a parcel within a historic district including a parcel which is to be rendered vacant or partially vacant by reason of the partial or complete demolition of a structure within a historic site or district.

c. "Commission" means the historic preservation commission created under this section.

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

e. "Demolition by neglect" means the failure of a building owner to maintain a historic structure or a structure on a historic site or within a historic district in accordance with the standards of s. 275-32.

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

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

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

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

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

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

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

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

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

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

f-10. Its association with pre-European settlement.

f-11. Its stature as an outstanding example of engineering.

f-12. Its exemplification of innovative post-world war II construction techniques, design or function.

f-13. Its characteristics satisfy the criteria for listing in the national register of historic places or the state of Wisconsin register of historic places.

g. "Historic district" means a district which contains improvements which:

g-1. Have historical, architectural or cultural significance.

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

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

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

h. "Historic site" means one of the following:

h-1. A real property on which a structure having historical significance is located.

h-2. A real property 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.

h-3. A real property that has been designated a historic site by the common council.

i. "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.

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

k. "Rehabilitation" means 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.

3.5. USE OF THE TERM “DAY”. In this section, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a day that city offices are closed. When the period of time prescribed or allowed is less than 11 days, Saturdays, Sundays and holidays shall be excluded in the computation.

4. MEMBERS. a. Composition. 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.

b. Terms. Members shall be appointed for terms of 3 years. Members may be reappointed for succeeding terms. 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.

5. RULES OF THE COMMISSION. The commission shall elect from its membership a chair and a vice-chair whose terms of office shall be fixed by the commission. The commission shall adopt rules of procedure for the transaction of its business.

6. STAFF. The city clerk's office shall provide administrative and professional support to the commission.

7. 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 s.16.05, city charter, obtain agreements and contracts with public or private agencies or individuals, for assisting the commission in carrying out its functions, powers, and duties.

8. 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 city clerk shall file that designation in recordable form with the Milwaukee county register of deeds.

f. Issue certificates of appropriateness under sub. 11.

g. Issue mothballing certificates under sub. 15.

h. Collaborate with the state of Wisconsin historic preservation officer to promote the inclusion of properties designated as historic sites, structures or districts in the national register of historic places.

i. Educate the citizens of Milwaukee about the historic heritage of this city and the historic sites, structures and districts designated under this section.

j. Receive and solicit funds for historic preservation in the city. The funds shall be placed in a special city account for this purpose.

9. NOMINATION AND DESIGNATION OF HISTORIC SITES, STRUCTURES AND DISTRICTS. a. Any adult resident of the city, the local common council member or the owner of the subject property may nominate a structure, site or geographic area for designation as a historic structure, historic site or historic district. A nomination shall be filed with the city clerk's office on forms made available for this purpose and shall be accompanied by the historic preservation nomination fee specified in ch. 81, except that no fee shall be required for a nomination filed by a common council member. The city clerk shall immediately forward the nomination to the staff of the commission. The commission staff shall review the nomination and shall, within 10 days of the filing of the application, determine whether the application is complete as to form. Once the commission staff determines that the nomination is complete as to form, the staff shall refer the nomination to the commission for further proceedings in accordance with this subsection. In addition, the commission staff shall notify, by first-class mail, the owner of record of each real estate parcel or structure that is the subject of the nomination to

inform the owner of the nomination and that staff is available to discuss the nomination process and the effects of designation.

b. The commission shall hold a public hearing on a nomination within 45 days of the date on which commission staff deems the nomination complete and ready for consideration by the commission. 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:

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

b-2. The common council members of the aldermanic districts in which the proposed designation is located.

b-3. All persons or corporations who own property that is within 200 feet of the proposed designation. This notice shall be by first class mail.

c. Upon conclusion of the public hearing and after consideration of the criteria for determining historic, architectural and cultural significance provided in sub. 3-f, the commission shall decide whether to deny the request for historic designation or recommend historic designation of the nominated structure, site or district to the common council. The commission shall set forth written findings which constitute the basis for its decision, regardless of whether the decision is to deny the request or to recommend historic designation. In the case of a recommendation for historic designation, the commission may also recommend preservation guidelines for the site, structure or district.

d. The commission shall, by first-class mail, notify the owner of the subject property, the person who made the nomination and the local common council member of its decision. This notice shall include the findings which constitute the basis for the commission's decision and, in the case of a recommendation for historic designation, any preservation guidelines for the site, structure or district recommended by the commission. A denial of a request for designation may be appealed to the common council in accordance with par. j.

e. Upon receipt of a favorable recommendation from the commission, the commission's findings and the recommended preservation guidelines, if any, the common council shall introduce a file to approve the designation and schedule that file for a public hearing, with notice to the parties identified in par. b, before the appropriate committee of the common council at the next regularly-scheduled committee meeting. The common council shall adopt the recommendation of the commission unless the owner or owners of the real property or structure that is the subject of the recommendation, or, in the case of a recommendation of a historic district, the owners of not less than 75% of the real estate parcels within the recommended district file a written objection to the designation with the city clerk not less than 48 hours prior to the committee's public hearing. In the event of an objection, the common council shall balance the interest of the objectors in their property with the public interest in the preservation of the structure,

site or district that is the subject of the recommendation. If the common council adopts the commission's recommendation, the common council shall by reference approve the study report for the proposed historic site, structure or district prepared by the commission, including any recommended preservation guidelines for the site, structure or district, subject to any modifications made to the report by the common council.

f. After the designation decision is final, the commission shall notify the owner of the subject property, the person who nominated the subject property for historic designation, the affected council member, the commissioner of city development, the commissioner of public works, and the commissioner of neighborhood services. The city clerk shall file, in recordable form, notice of the designation with the Milwaukee county register of deeds and shall cause the designation to be recorded.

g. If the commission has recommended a site, structure or area for historic designation, final action, in accordance with this subsection, shall be taken by the common council within 2 years of the date of the commission's recommendation. If final action is not taken within 2 years and the owner has been given the opportunity to address the appropriate committee of the common council, the designation of the site, structure or area is deemed approved.

h. If a nomination for historic designation is denied by the commission and not appealed to the common council pursuant to par. j, or denied by the common council, the commission shall not consider a renomination of the same structure, site or geographic area unless:

h-1. Two years have passed since the date the nomination was denied by the commission or the common council, whichever is later. In such cases, the renomination shall be considered a new nomination for the purposes of this section.

h-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 hearing on a renomination based on new evidence shall be scheduled until after an affirmative vote of a majority of the members of the commission present and voting.

i. All renominations shall be subject to the same notice requirements as the original public hearings.

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 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 vote of 2/3 of its members, affirm or 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-f, and the interest of the public in preserving the subject structure, site or district.

10. 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. 9-e. 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. 9. The common council may amend preservation guidelines only after receiving a recommendation from the historic preservation commission.

11. REGULATION OF ALTERATION, RECONSTRUCTION, REHABILITATION, CONSTRUCTION AND DEMOLITION. a. Certificate Required. No person or entity shall alter, reconstruct or rehabilitate any part of the exterior of a historic structure or structure or improvement on a historic site or within a historic district, construct any improvement on a historic site, on a parcel that contains a historic structure or on a parcel within a historic district, including a parcel which is to be rendered vacant or partially vacant by reason of partial or completed demolition of a structure within a historic site or district, or partially or wholly demolish any historic structure or structure or improvement on a historic site or within a historic district, or permit any of these activities to occur unless a certificate of appropriateness has been granted by the commission. The commissioner of city development or neighborhood services shall not issue a permit for any such work or demolition unless a certificate of appropriateness has been issued by the commission as provided in this subsection. In addition, any permit application or plans for exterior alteration, new construction or demolition within a historic district, on a historic site or involving a historic structure received by a city department or agency shall be forwarded to the staff of the commission by the receiving department or agency within 3 business days of receipt of the permit application or plans.

b. Application. An application for a certificate of appropriateness, or to amend a certificate previously issued, shall be filed by the property owner with the city clerk's office on forms made available for this purpose. The city clerk shall immediately forward the application to the staff of the commission. The commission staff shall immediately provide notice of receipt of the application to the parties identified in sub. 9-b-2 and 3, review the application and, within 10 days of the filing of the application, determine whether the application is complete as to form and, if not complete, notify the applicant of all steps necessary to make the application complete. Once the staff determines that the application is complete and ready for consideration by the commission, the staff shall refer the application to the commission for further proceedings in accordance with this subsection.

c. Commission Review. c-1. Certificate to Allow Alteration, Reconstruction, Rehabilitation or New Construction. The commission shall consider the application for the certificate of appropriateness at its next regularly-scheduled meeting that is at least

10 days after notification by staff that the application is complete as to form. Within 30 days of the conclusion of the meeting, the commission shall render a decision that grants, grants with conditions or denies action on the certificate of appropriateness. The staff of the commission shall notify the applicant of the commission's action by certified mail within 15 days of the commission's action. No public hearing shall be held in conjunction with the commission's consideration of an application for a certificate of appropriateness to allow alteration, reconstruction, rehabilitation or new construction unless an objection to issuance of the certificate is filed in writing with the city clerk within 20 days of the date on which the city clerk sent notice of receipt of an application under par. b, in which case a public hearing shall be conducted in accordance with the procedures of subd. 2.

c-2. Certificate to Allow Demolition. The commission shall hold a public hearing on an application for a certificate of appropriateness within 45 days after commission staff determines the application to be complete and ready for consideration by the commission. Notice of the hearing shall be as provided in par. d. At the public hearing, the commission shall accept written and oral testimony, including petitions and electronic communications, from the applicant, any agents or representatives of the applicant, common council members, city departments and any members of the public. The commission chair may set reasonable time limits for the presentation of oral testimony, except that the applicant shall be given a full and complete opportunity to present any facts and argument in favor of his or her application, including rebuttal testimony. Within 30 days of the conclusion of the public hearing, the commission shall render a decision that grants, grants with conditions, denies or, in the case of a certificate application relating to demolition and pursuant to par. f, defers action on, the certificate of appropriateness. If the commission grants or conditionally grants a certificate of appropriateness for demolition to allow for new construction, the commission may, in its decision, stipulate that no permit for demolition shall be issued by the commissioner of city development or the commissioner of neighborhood services until the commission determines that the applicant has provided the commission with evidence, satisfactory to the commission in consultation with the comptroller, that all debt and equity financing necessary for the new construction project has been obtained and all related conditions have been satisfied. The staff of the commission shall notify the applicant of the commission's action by certified mail within 15 days of the commission's decision.

d. Notice of Hearing. Notice of hearing for any certificate of appropriateness 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 provided in the application. There shall also be public notice given by the commission, as well as notice to the parties specified in sub. 9-b. 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. The commission may grant the applicant a request for a delay of hearing for any good cause.

e. Appeal of Commission Decision. An applicant for a certificate of appropriateness may appeal the commission's decision to deny the certificate of appropriateness or grant it with conditions to the common council pursuant to par. L.

f. Deferral. f-1. The commission may defer a decision on an application for a certificate of appropriateness for demolition for up to 8 months. The commission shall, within 10 days of its decision to defer, provide the applicant with a written report setting forth the reason or reasons for deferral. During the period of deferral, the commission and the applicant shall seek a mutually-agreeable method of saving the subject structure or improvement. During this time, the owner shall also take whatever steps are necessary to prevent further deterioration of the structure or improvement. By the end of the deferral period, the commission shall grant, grant with conditions or deny the certificate of appropriateness. If the commission fails to take action by the end of the deferral period, the certificate of appropriateness shall be deemed granted.

f-2. If the commission defers its decision, the applicant may appeal the deferral action to the common council by filing a written request for an appeal with the city clerk within 20 days after the mailing of the notice of the commission's decision to defer action. The appropriate common council committee shall conduct a public hearing on the appeal at its next regularly-scheduled meeting. Following the public hearing, the council shall, by resolution, sustain or reverse the commission's deferral action. If the council reverses the commission's deferral action, the commission shall grant, grant with conditions or deny the certificate of appropriateness at its next regularly-scheduled meeting.

g. Criteria; Certificates to Allow Alteration, Reconstruction, Rehabilitation or New Construction. In determining whether to grant, grant with conditions or deny a certificate of appropriateness to allow alteration, reconstruction, rehabilitation or new construction, the commission shall consider and may give decisive weight to any applicable factors listed in sub. 12 and to any of the following:

g-1. Whether the proposed work would detrimentally change, destroy or adversely affect any exterior architectural feature of the improvement upon which the work is to be done or adversely affect the external appearance of other improvements on the site or within the district.

g-2. Whether, in the case of construction of a new improvement on a historic site or within a historic district, and with consideration of design review recommendations issued by the department of city development, the new improvement is all of the following:

g-2-a. Authentic architecture of its own time, while being sensitive to the mass and proportions of existing structures on the site or within the district in which the subject property is located.

g-2-b. Appropriately-scaled, contemporary architecture that is clearly differentiated from nearby historic structures, while taking subtle cues from them.

g-2-c. Not an attempt to re-create a historic structure.

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

h. Criteria; Certificates to Allow Demolition. In determining whether to grant, grant with conditions, deny or defer action on a certificate of appropriateness to allow partial or complete demolition, the commission shall consider and may give decisive weight to any of the following:

h-1. Whether the 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 structure, although not itself an individually-designated historic structure, 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 structure on a historic site or within a historic district 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 structure is of such old and unusual or uncommon design, texture or material that it could not be reproduced without great difficulty or expense.

h-5. Whether retention of the structure would promote the general welfare of the people of the city and the state by encouraging the study of American history, architecture and design, or by developing an understanding of American culture and heritage.

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

h-7. If the structure is located on a historic site or within a historic district, whether any new structure proposed to be constructed, or change in character proposed to be made, is all of the following:

h-7-a. Authentic architecture of its own time, while being sensitive to the mass and proportions of existing structures on the site or within the district in which the subject property is located.

h-7-b. Appropriately-scaled, contemporary architecture that is clearly differentiated from nearby historic structures, while taking subtle cues from them.

h-7-c. Not an attempt to re-create a historic structure.

i. Additional Provisions; Certificate to Allow New Construction. In the case of an application for a certificate of appropriateness for new construction that also involves an application for a zoning change to a planned development district pursuant to s. 295-907-2, the commission shall confer with the commissioner of city development and shall coordinate the review of the application for a certificate of appropriateness for new construction with the review of the application for creation of the planned development district. This review and coordination may include holding a joint meeting of the historic preservation commission and the plan commission to consider both applications. To the extent practicable, the historic preservation commission and plan commission shall strive for concurrent consideration of the application for a certificate of appropriateness for new construction and the application for creation of the planned development district, and shall endeavor to provide a joint report to the common council. In the event that concurrent consideration cannot be achieved, the historic preservation commission and plan commission do not agree on a joint report or the historic preservation commission fails to act within a reasonable time on the application for a certificate of appropriateness for new construction, the appropriate common council committee shall hold a hearing on both the application for a certificate of appropriateness for new construction and the application for creation of a planned development district. In that case, the common council's action with respect to the approval, denial or modification of the application for creation of a planned development district shall also constitute action on the application for a certificate of appropriateness for new construction.

j. Additional Provisions; No Action Taken By Commission. Notwithstanding anything to the contrary herein, if the commission does not grant, grant with conditions, deny or, in the case of a request to demolish a structure, defer action on a certificate of appropriateness for demolition within 90 days of the date that the staff of the commission determined that the application was complete as to form, the application for a certificate of appropriateness for demolition shall be deemed deferred and the procedures set forth in par. f shall govern further proceedings.

k. Issuance of Certificate. Upon the granting or conditional granting of a certificate of appropriateness by the commission, the commission's staff shall issue a certificate of appropriateness document to the applicant. In the case of conditional granting of a certificate, the certificate document shall only be issued upon the applicant's acceptance of the conditions placed on issuance of the certificate by the commission.

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 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 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 of 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 the following information to the city clerk not less than 5 days prior to the public hearing:

L-1. Property purchase information, including the purchase price the owner paid for the property, the date of purchase and the name of the party from whom the property was purchased, including a description of the relationship, if any, between the owner of the property and the person from whom the property was purchased.

L-2. Property value information, including the most recent assessed value of the land and improvements thereon and any appraisals in the owner's possession or control prepared within the previous 2 years in connection with the purchase, financing, ownership or attempts to sell the property.

L-3. For an income-producing property, financial documentation for the property during the past 2 years, including tax returns showing annual gross income from the property, itemized operating and maintenance expenses for the property, real estate tax statements, proof of annual debt service, annual cash flow and any federal income tax deductions or depreciation claimed for the property.

L-4. Any information about attempts to sell the property, including all listings of the property for sale or rent, the price asked and any offers received.

L-5. Information showing any and all considerations by the owner as to profitable, adaptive uses for the property.

L-6. Any other information that is relevant to the issue of whether denial of the certificate or the conditions placed on the certificate creates an unreasonable economic hardship for the owner, such as reports of licensed engineers or architects familiar with the property or cost estimates for work necessary to satisfy conditions on the certificate or the regulations contained herein.

m. Explanation of Preservation Guidelines. The city's book "As Good as New" shall serve as a detailed explanation of preservation guidelines for residential historic structures designated under this section. The city's book "Good for Business" shall

serve as a detailed explanation of preservation for commercial historic structures designated under this section. Copies of these books shall be available in the city's legislative reference bureau and public library.

n. Location of Utility Meter. New installation of a natural gas meter or a utility meter on a historic structure, or on a structure on a historic site or within a historic district, shall not be permitted on a street-facing elevation of the structure.

o. Building Code Compliance. Insofar as it is applicable to a historic structure, historic site or structure within a historic district designated under this section, any provision of the building code shall apply, unless waived by the appropriate state or city officials as permitted by law. The commission may support or propose such waivers before the appropriate state or city appeals bodies.

12. 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. Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure or site shall be treated with sensitivity.

f. Deteriorated architectural features shall be repaired rather than replaced, wherever possible. If replacement is necessary, the new material shall match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features shall be based on accurate duplications of features, substantiated by historic, physical or pictorial evidence rather than on conjectural designs or the availability of different elements from other buildings or structures.

g. The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken without a certificate of appropriateness.

h. Every reasonable effort shall be made to protect and preserve archeological resources affected by, or adjacent to, any project.

i. Contemporary design for alterations and additions to existing properties shall not be discouraged when the alterations and additions do not destroy significant historical, architectural or cultural material, and the design is compatible with the size, scale, color, material and character of the property, neighborhood, or environment.

j. Wherever possible, new additions or alterations to structures shall be done in such a manner that if the additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.

13. TEMPORARY DESIGNATION. a. Application. Any adult resident of the city seeking to nominate a structure, site or geographic area for designation as a historic structure, historic site or historic district may also seek temporary designation of that structure, site or geographic area pending a decision by the commission on the application for permanent designation. An application for temporary designation shall be filed with the city clerk's office, on forms made available for this purpose, either at the time of filing the application for permanent designation or at any time prior to the final decision by the commission on the application for permanent designation. The city clerk shall immediately forward the application for temporary designation to the staff of the commission for further proceedings in accordance with this subsection. In addition, the commission staff shall notify, by first-class mail, the owner of record of each real estate parcel and structure that is the subject of the nomination to inform the owner of the nomination and that staff is available to discuss the nomination process and the effects of temporary designation.

b. Notice of Hearing. The commission shall schedule a public hearing on the application for temporary designation within 20 days of the date the application for temporary designation was filed. Notice as to the time, place and purpose of the hearing shall be sent at least 5 days prior to the hearing to the following parties:

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

b-2. The common council member of the aldermanic district in which the proposed designation is located.

b-3. All persons or corporations who own property that is within 200 feet of the proposed designation. This notice shall be by first class mail.

c. Demolition Permits Withheld. Upon the filing of an application for temporary designation, neither the commissioner of city development nor the commissioner of

neighborhood services shall issue a permit for the partial or complete demolition of any structure that is the subject of the application for temporary designation or any structure that is located upon a historic site or is in a geographic area that is the subject of an application for temporary designation until the conclusion of the hearing and the entry of the temporary designation decision provided for herein and the exhaustion of either the appeal to the common council described in par. h or the expiration of the time for filing an appeal. The issuance of a permit for demolition of the structure may be further delayed or otherwise affected by the decisions of the commission and the common council concerning temporary and permanent historic designation.

d. Review of Temporary Designation. Upon conclusion of the public hearing and after consideration of the criteria for determining “historic, architectural and cultural significance” provided in s. 320-3-e, the commission shall grant temporary designation if the commission finds that there is a substantial likelihood that the commission will recommend historic designation of the nominated structure, site or district to the common council following full consideration of the application for permanent designation. The commission shall set forth written findings which constitute the basis for its determination. Temporary designation shall be effective until the commission either recommends or denies permanent designation and the period for appeals of that decision to the common council has expired, but in no event more than 180 days from the day of the commission’s decision granting temporary designation.

e. Notice of Findings. If the commission grants temporary designation, the commission shall, by first-class mail, notify the owner of the subject property, the person who made the nomination and the local common council member. The notice shall include written findings of the commission that form the basis for its determination.

f. Effects of Temporary Designation. During the period of temporary designation, no person or entity shall alter, reconstruct or rehabilitate any part of the exterior of the subject historic structure, historic site, or structure or improvement within a historic district, construct any improvement on a historic site, on a parcel that contains a historic structure or improvement, or on a parcel within a historic district, including a parcel which is to be rendered vacant or partially vacant by reason of partial or completed demolition of a structure within a historic site or district, or partially or wholly demolish the subject historic structure, or structure or improvement on a historic site or within a historic district, or permit any of these activities to occur, unless a certificate of appropriateness has been granted by the commission under sub. 11. Neither the commissioner of city development nor the commissioner of neighborhood services shall grant any permits for any such activity unless a certificate of appropriateness therefor has been granted by the commission.

g. Appeal by Owner. g-1. The owner of the subject property may, within 5 days of the commission's decision granting temporary designation, 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 shall affirm the commission's decision unless the common council finds that there is no reasonable basis for the commission's finding that there is a substantial likelihood that the commission will recommend historic designation of the nominated structure, site or district to the common council following full consideration of the application for permanent designation.

g-2. The city clerk shall immediately notify the commissioners of neighborhood services and city development of the common council's appeal decision. If the common council reverses the decision granting temporary designation, the commissioners may issue any permits duly applied for pursuant to s. 200-26-1.

g-3. If the common council reverses the decision granting temporary designation, the commission shall not entertain another application for temporary designation for the same structure, site or geographic area until 180 days after the date of the common council's reversal decision.

h. Appeal by Applicant or Other Interested Party. h-1. If the commission denies an application for temporary designation, the applicant or any person who received notice of the commission's hearing under par. b 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.

h-2. The city clerk shall immediately notify the commissioners of city development and neighborhood services of the appeal petition. Upon receiving notice of the filing of the appeal, neither the commissioner of city development nor the commissioner of neighborhood services shall issue any permits for any of the activities described in par. f for the subject property.

h-3. The common council shall review the commission's decision within 45 days after receipt by the city clerk of the appeal petition. The common council shall consider the application for temporary designation in light of the criteria for determining "historic, architectural and cultural significance" provided in s. 320-21-3-f and shall grant temporary designation if it finds that there is a substantial likelihood the common council will grant historic designation of the nominated structure, site or district following full consideration of the application for permanent designation. The common council shall set forth written findings which constitute the basis for its determination. If the common council grants temporary designation, the subject structure, site or district shall be deemed designated as a historic structure, site or district on a temporary basis for a period not exceeding 180 days.

h-4. The city clerk shall immediately notify the commissioners of city development and neighborhood services of the common council's appeal decision. If the common council affirmed the commission's decision, the commissioners may issue any permits duly applied for authorizing work on the subject property. If the common council reversed the commission's decision, the commissioners shall not issue permits for any of the

activities described in par. f for the subject property for the duration of the temporary designation period.

14. SUPERVISION OF CERTIFICATE. The commissioner of neighborhood services shall periodically inspect any undertaking authorized by a certificate of appropriateness. If the commissioner detects any deviation from the conditions or standards prescribed in the certificate, the commissioner shall promptly report such violations to the commission and take appropriate action under ss. 200-11-3, 200-12-1 and 200-19.

15. MOTHBALLING CERTIFICATE. To facilitate the preservation of historic structures and sites, 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 code provisions 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 city clerk, who shall immediately forward the application to the commission for recommendation and report at its next regularly-scheduled meeting that is at least 10 days after the application is determined by staff to be complete as to form. 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 the request for a mothballing certificate at the meeting described in par. a. 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. The 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 timeline 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. 12, 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 a 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. The 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 the 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 the certificate and stating the reasons for the 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 the meeting.

16. EMERGENCY RAZING NOT PROHIBITED. Nothing contained in this section shall prohibit the demolition of a structure for which a court order has been issued or for which the commissioner of neighborhood services has issued an emergency raze order under s. 218-4.5.

17. TERMINATION OF DESIGNATION OF HISTORIC STRUCTURE. a. Petition. Whenever a historic structure not located in a historic district is damaged beyond repair by fire, explosion or natural disaster, the owner of the structure, the local common council member or staff of the commission may file a petition with the city clerk requesting that the historic designation of the damaged structure be terminated. The city clerk shall immediately forward the petition to the commissioner of neighborhood services for a report and to the appropriate common council committee for review and recommendation to the full council. The committee and the council shall base their decisions on a report from the commissioner of neighborhood services that describes the extent of damage to the structure and includes a determination of the commissioner as to whether the structure is damaged beyond repair.

b. Notification and Recording. If the common council grants a petition to terminate designation of a historic structure, the city clerk shall notify the owner of the subject property, the affected common council member, and the commissioners of city development, neighborhood services and public works. The city clerk shall also file, in recordable form, notice of termination of the historic designation with the Milwaukee county register of deeds and cause the notice to be recorded.

18. PLAQUES. The commission shall establish a plaque program to identify and provide information on local historic structures, sites and districts.

19. ENFORCEMENT. Any violation of this section shall be subject to the enforcement provisions of ss. 200-11-3 and 200-12-1. The commissioner of neighborhood services shall be responsible for enforcement of this section.

20. APPEAL OF COMMISSIONER OF NEIGHBORHOOD SERVICES DECISION. a. Appeal Not Based on Economic Hardship. The commission shall hear appeals of orders of the commissioner of neighborhood services issued pursuant to this section that require owners to restore their properties to their original or previous condition, to apply for certificates of appropriateness or to comply with the terms of a previously-granted certificate of appropriateness, except for those appeals based on economic hardship. An appeal shall be made by filing a written request with the city clerk 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 city clerk shall immediately forward the appeal to the staff of the commission. At its next regularly-scheduled meeting that is at least 10 days after the city clerk's receipt of the appeal, the commission may reverse or revise, in whole or in part, any order by a

2/3 majority of its members. No hardship created by an owner shall serve as a basis for reversing or revising an order. The commission shall notify the owner of its decision within 15 days.

b. Appeal Based on Economic Hardship. If an appeal is based on economic hardship, the applicant shall file a written request with the city clerk, who shall in turn file the appeal with the common council. The written appeal shall include the documentation of economic hardship described in sub. 11-L-1 to 6. The common council shall hear the appeal in accordance with the provisions of sub. 11-L.

21. PENALTIES. Any violation of this section shall be subject to the penalty provisions of s. 200-19.

08/23/2012