

## Chapter 20 - HISTORIC PRESERVATION AND ARCHEOLOGY<sup>[1]</sup>

### ARTICLE I. - IN GENERAL

#### Sec. 20-1. - Enforcement officers and citations.

The following persons are hereby authorized to enforce the provisions of this chapter and may issue citations as provided for in Wis. Stat. § 800.02(2) for violations of this chapter:

- (1) The Chief of Police.
- (2) The Fire Chief.
- (3) Such other City officers or City employees who are assigned enforcement responsibilities for this chapter.

Secs. 20-2—20-20. - Reserved.

### ARTICLE II. - HISTORIC PRESERVATION<sup>[2]</sup>

#### DIVISION 1. - GENERALLY

#### Sec. 20-21. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Certificate of appropriateness* means the certificate issued by the Commission approving an alteration, construction or reconstruction of any property or improvement of an individually designated property, landmark, landmark site or historic properties within a Historic Zoning Overlay District.

*Certificate of appropriateness for demolition* means the certificate issued by the Commission approving the demolition of a historic structure, historic site or demolition of any structure or improvement in a Historic District.

~~*Certificate of recommendation* means the certificate issued by the Commission approving or disapproving a proposed alteration, construction or reconstruction of a historic structure or historic site. The certificate of recommendation shall be a nonbinding recommendation only.~~

*Commission* means the Heritage Preservation Commission created under this article.

*Contributing and noncontributing building.* A "contributing building" means a building or structure that contributes to the distinctive architectural or special historic character of a historic district as a whole and, therefore, should be preserved for the benefit of the people of the city and the State, as opposed to a "noncontributing building" which is a building or structure that does not so contribute.

*Demolition by neglect* means the process of allowing landmarks, landmark sites or improvements in historic districts to decay, deteriorate, become structurally defective or otherwise fall disrepair.

*Historic District or Historic Zoning Overlay District* is an area designated by the Common Council on recommendation of the Commission composed of one or more improvements or sites that is of 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 District pursuant to the provisions of this Code.

*Historic Preservation* means the research, protection, restoration and rehabilitation of historic properties.

*Historic site* means any parcel of land whose historic significance is due to a substantial value in tracing the history of aboriginal people, or upon which a historic event has occurred, and which has been designated as a historic site under this section, or an improvement parcel, or part thereof, on which is

situated a historic structure and any abutting improvement parcel used as and constituting part of the premises on which the historic structure is situated.

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

*Improvement* means any building, structure, or place constituting a physical betterment of real property, or any part of such betterment which has historic significance, exclusive of interior renovation or remodeling.

*Improvement parcel* means the unit of property which includes a physical betterment constituting an improvement and the land embracing the site thereof, and is treated as a single entity for the purpose of levying real estate taxes; provided, however, that the term "improvement parcel" shall also include any unimproved area of land which is treated as a single entity for such tax purposes.

*Reconstruction* means reestablishment of a historical feature or execution of a new design that is compatible with the character-defining features of a historic building. The new design should always take into account the size, scale, and material of the historic building itself, and should be clearly differentiated so that a false historical appearance is not created.

*Rehabilitation* means the process of returning a historic building to good repair and safe condition and may include interior improvements that are needed to support the exterior of the building, as well as repurposing or adapting the building to a new use.

*Restoration* means the process of returning a historic building to a previous appearance, preferably through the use of historic photographs, and other physical or documentary evidence. Introduction of hypothetical or conjectural materials should be avoided in restoration.

#### Sec. 20-22. - Penalties for violations.

Any person violating any provision of this article shall be subject to a forfeiture of not less than \$20.00 nor more than \$1,000.00 for each separate violation. Each and every day during which a violation continues shall be deemed to be a separate offense. In addition to other remedies, the proper authorities of the City may institute appropriate action or proceedings to prevent a violation of this article, including injunctive relief.

#### Sec. 20-23. - Purpose and intent.

It is hereby declared a matter of public policy that the protection, enhancement, perpetuation and use of improvements of special 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 article is to:

- (1) Effect and accomplish the protection, enhancement, and perpetuation of such improvements which represent or reflect elements of the City's cultural, social, economic, political, engineering and architectural history.
- (2) Safeguard the City's historic and cultural heritage, as embodied and reflected in such historic structures, sites and objects.
- (3) Stabilize and improve property values.
- (4) Foster civic pride in the beauty and noble accomplishments of the past.
- (5) Protect and enhance the City's attractions to residents, tourists and visitors, and serve as a support and stimulus to business and industry.
- (6) Strengthen the economy of the City.

- (7) Promote the use of historic structures, sites and objects for the education, pleasure and welfare of the people of the City.

Sec. 20-24. - Conditions dangerous to life, health or property.

Nothing contained in this article shall prohibit the demolition of any historic structure, or any improvement on a historic site pursuant to 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. In such cases, no approval from the Commission shall be required.

Secs. 20-25—20-51. - Reserved.

## DIVISION 2. - HERITAGE PRESERVATION COMMISSION<sup>[3]</sup>

Sec. 20-52. - Creation; membership; officers.

- (a) A Heritage Preservation Commission is hereby created, consisting of seven members, all of whom shall be residents of the City. Of the membership, one shall be a Council Member and the remaining members shall be citizens of the City. The Mayor shall appoint the Commissioners subject to confirmation by the Common Council. The Commission may recommend to the Mayor members to be appointed to the Commission. To the extent available in the City, the local government shall appoint a professional member from the disciplines of history, architectural history, architecture, archeology, planning or other historic preservation related disciplines such as urban planning, American studies, American civilization, cultural geography or cultural anthropology. Membership on the Commission shall be for a term of two years. However, the Common Council may remove a member from appointment if a member has accumulated three or more unexcused absences within one year and the Commission recommends removal. No salary or compensation shall be paid to any member of said Commission for services.
- (b) The Commission shall meet at such times and frequency as may be necessary at a place designated by the Commission Chair. The City Clerk shall provide appropriate notice of the meeting prior to such meeting.
- (c) The Commission shall elect four officers, each to serve the full duration of a term of appointment to the Commission; a Chair, a Vice-Chair, a Secretary, and a Treasurer. The last two offices may be combined into one office as Secretary-Treasurer, served by one person, at the discretion of the Chair and subject to approval of the entire Commission membership. The duties of the Chair shall be to preside at meetings, to assign projects to members, to call special meetings, to issue public statements for the Commission, and in general to assume the duties of directing the activities of the Commission. The duties of the Vice-Chair shall be to act in the place of the Chair in event of the latter's absence or inability to act. The duties of the Secretary shall be to keep complete and accurate minutes of each meeting. The Secretary shall arrange for a suitable place for each meeting upon instruction from the Vice-Chair. The duties of the Treasurer shall be to keep complete and accurate records and accounting of all funds—income and expenditures of every nature of the Commission. The Treasurer shall also prepare a written statement of recommended expenditures and reasons therefor, to be submitted to the Common Council for approval, such statement to be subject to approval of the Commission's Chair and the Commission membership.

Sec. 20-53. - Powers and duties generally.

The Commission shall have the power, subject to sections 20-54, 20-58, 20-91 and chapter 15, article V, division 3, to designate historic structures and historic sites and to recommend designation of historic districts within the City limits. Such designations shall be made based on the criteria in section 20-90 and chapter 15, article V, division 3. Historic districts shall be approved by the Common Council. Once designated, the owner of such historic structure, site, and improvement shall notify any purchasers of such designation and such historic structures, sites, improvements, and districts shall be subject to all the

provisions of this Code. The Commission shall have the power to rule and conduct hearings for all matters involving demolition by neglect.

Sec. 20-54. - Procedures.

In carrying out its duties under this article, the Commission must provide notice and hold public hearing. Prior to designating property as a historic structure or site, the Commission shall notify, in writing, the owners of record, as listed in the City Assessor's Office, of the proposed designation. Such notice shall be by personal delivery or certified mail at least 20 days prior to the public hearing considering the matter. Notice of such hearing shall also be published as a Class 1 Notice under Wisconsin Statutes. These owners shall have the right to confer with the Commission prior to final action by the Commission. Prior to any hearing considering a matter provided for in this article, the Commission shall notify the following: Mayor, Director of Public Works, Redevelopment Authority, Department of Parks and Recreation, Department of Planning and Development and Council Member in whose district the property is located. Each such department may respond to the Commission within ten days of notification with its comments on the proposed request for action. The Commission shall then conduct such public hearing and, in addition to the notified persons, may hear expert witnesses and shall have the power to subpoena such witnesses and records as it deems necessary. The Commission may conduct an independent investigation into the proposed request for action. Notification of the decision of the Commission to designate or rescind a designation of a historic structure or historic site or to issue any certificate under this article shall be sent to the property owner. Notification shall also be given to the City Clerk, Planning and Development Department, Fire Department-Division of Fire Prevention and Building Safety and City Assessor.

Sec. 20-55. - Recognition of historic structures, sites and districts.

At such time an individually listed historic property, historic structure, site or district has been properly designated, the Commission may cause to be prepared and erected on such property or within such district at City expense, a suitable plaque declaring that such property is a historic structure, site or district. Such plaque shall be so placed as to be easily visible to passing pedestrians. The plaque shall state the name of the historic property, the date of its construction of significance, and other information deemed proper by the Commission.

Sec. 20-56. - Annual report.

The Commission shall make an annual written report to the Common Council, through the Mayor, with respect to its activities for the preceding year. Such annual report shall be filed with the Council on October 1 of each year.

Sec. 20-57. - Other duties.

In addition to those duties already specified in this article, the Commission shall:

- (1) Work for the continuing education of the citizens about the historical heritage of this City and the historic properties designated under the provision of this section.
- (2) Cooperate with the State of Wisconsin Historic Preservation Officer and the State Historic Preservation Review Board in attempting to include such properties hereunder designated as historic structures or historic sites, or historic districts in the National Register of Historic Places and the State Register of Historic Places.
- (3) As it deems advisable, 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.

Sec. 20-58. - Appeals.

An appeal from any decision of the Commission of any kind, including designation of historical structures, improvements and sites or the refusal to rescind any designation of historical structures or sites may be taken to the Common Council. Such appeal may be initiated by filing a petition to appeal

specifying the grounds therefor, with the City Clerk within 30 days of the date of the decision of the Commission which is being appealed. The City Clerk shall file the petition to appeal with the Common Council. The Common Council shall hold a public hearing on the appeal and may by majority vote of its members reverse or modify any decision of the Commission.

### DIVISION 3. - HISTORIC STRUCTURES AND SITES

#### Sec. 20-90. - Historic structures and sites designation criteria.

- (a) For purposes of this article, a historic structure or historic site designation may be placed on any site, natural or improved, including any building, improvement or structure located thereon, or any area of particular historic, architectural or cultural significance to the City of La Crosse such as historic structures or sites which:
  - (1) Exemplify or reflect the broad cultural, political, economic or social history of the nation, State or community;
  - (2) Are identified with historic personages or with important events in national, State or local history;
  - (3) Embody the distinguishing characteristics of an architectural type or specimen, inherently valuable for a study of a period, style, method of construction, or of indigenous materials or craftsmanship; or
  - (4) Are representative of the notable work of a master builder, designer or architect whose individual genius influenced such master's age.
- (b) The Commission may adopt specific operating guidelines for landmark sites designation providing such are in conformance with the provisions of this article.
- (c) A fee in the amount established by resolution shall be paid by the owner of said property to the City of La Crosse in connection with said historic designation.

#### Sec. 20-91. - Voluntary restrictive covenants.

The owner of any historic structure or site may, at any time following such designation of his property, enter into a restrictive covenant on the subject property after negotiation with the Commission. The Commission may assist the owner in preparing such covenant in the interest of preserving the historic property. The owner shall record such covenant in the County Register of Deeds Office and shall notify the City Assessor of such covenant and the conditions thereof.

#### Sec. 20-92. - Regulation of construction, reconstruction or alteration.

- (a) Prior to applying for a permit from the Fire Department - Division of Fire Prevention and Building Safety involving the exterior of a designated historic site or historic structure, an application for a certificate of ~~recommendation~~ appropriateness shall be filed with the Commission, in the Department of Planning, Development and Assessment. All existing individually listed properties will be subjected to a certificate of appropriateness unless a written statement has been submitted to the Department of Planning, Development, and Assessment prior to January 1<sup>st</sup>, 2022.
- (b) The applicant shall submit a detailed description of the proposed construction, reconstruction or alteration together with any architectural drawings, if those services have been utilized by the applicant, and a sufficient description of the construction or alteration and use to enable the Commission to determine what the final appearance of the structure will be.
- (c) No owner or person in charge of a historic site or historic structure shall construct or alter all or any part of the exterior of such property or construct any improvement upon such designated property or cause or permit any such work to be performed upon such property until a certificate of ~~recommendation~~ appropriateness has been issued by the Commission. The request for a certificate

of ~~recommendation~~ appropriateness for such sites shall be accompanied by the payment of a fee in the amount established by resolution. Until such certificate of ~~recommendation~~ appropriateness has been issued by the Commission, the Fire Department - Division of Fire Prevention and Building Safety shall not issue a permit for any such work.

- (d) Upon filing of any application with the Commission, the Commission shall within 45 days of receipt of the application consider and may give weight, in issuing its certificate of ~~recommendation~~ appropriateness, to any or all of the following:
- (1) Whether the property will be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
  - (2) Whether the historic character of the property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
  - (3) Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall be discouraged.
  - (4) Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property should be preserved.
  - (5) Deteriorated historic features should be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature should match the old in design, color, texture and other visual qualities and, where possible, materials.
  - (6) Chemical or physical treatments, such as sandblasting, that cause damage to historic materials should not be used. The surface cleaning of historic structures shall be undertaken using the methods promulgated by Department of Safety and Professional Services pursuant to Wis. Stat. § 101.1215.
  - (7) New additions, exterior alterations, or related new construction should not destroy historic materials that characterize the property. The new work should be differentiated from the old and should be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
  - (8) New additions and adjacent or related new construction should be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.
  - (9) The "Secretary of the Interior's Standards for Rehabilitation" (36 CFR 67 and 68 as amended).
  - (10) During deliberation, the Commission may require applicants to provide more information and documentation to form a decision on the matter. It is within the Commission's authority to gather information from other appropriate and trustworthy sources.
- (e) The Commission shall issue the certificate of ~~recommendation~~ appropriateness within 45 days of the filing of the application. The certificate of ~~recommendation~~ appropriateness shall serve as a binding agreement. During such period of review, the Commission shall work with the applicant to preserve the historical attributes of any structure or building.
- (f) The issuance of a certificate of recommendation shall not relieve the applicant from obtaining other permits and approvals required by applicable Federal, State or local code. Insofar as they are applicable to a historic site or historic structure designated under this section, any provision of the plumbing code, electrical code, or building or housing code of the City 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 body.
- (g) Ordinary maintenance and repairs may be undertaken without a certificate of ~~recommendation~~ appropriateness provided that the work involves repairs to existing features of a historic structure or historic site or the replacement of elements of a structure with materials similar in appearance and provided that the work does not change the exterior appearance of the structure or site and does not

require the issuance of a building permit. Plans must be reviewed by the Department of Planning, Development & Assessment staff.

Sec. 20-93. - Regulation of demolition.

- (a) Prior to applying for a permit from the Fire Department - Division of Fire Prevention and Building Safety to demolish all or part of the exterior of an individually designated historic structure, historic site, or structure or contributing building in a historic district an application for a certificate of appropriateness for demolition along with a fee as established by resolution shall be filed with the Commission, in the Department of Planning and Development.
- (b) The Commission may decide to grant the certificate of appropriateness for demolition or refuse to grant such Certificate. If the Commission fails to act on the application for the certificate of appropriateness for demolition within 45 days of the application date, it will be deemed an issuance of a certificate of appropriateness for demolition. During such period, the applicant and the Commission shall cooperate in attempting to avoid demolition of the property.
- (c) In determining whether to issue a certificate of appropriateness for demolition, the Commission shall consider and may give weight to any or all of the following:
  - (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 City and the State;
  - (2) Whether the building or structure, although not itself a designated historic structure, contributes to the distinctive architectural or historic character of the district as a whole and therefore should be preserved for the benefit of the City and State;
  - (3) Whether the building or structure is of such old and unusual or uncommon design, texture and/or material that it could not be reproduced or be reproduced only with great difficulty and/or expense;
  - (4) Whether the building or structure is in such a deteriorated condition that it is not structurally or economically feasible to preserve or restore it; provided, however, any hardship or difficulty claimed by the owner which is self-created or which is the result of inexcusable neglect to maintain the property in good repair shall not qualify as a basis for the issuance of a certificate of appropriateness;
  - (5) Whether the denial of the permit would result in the loss of all reasonable and beneficial use of or return from the property.
  - (6) Whether the property has been determined to be undergoing demolition by neglect as defined in this chapter.
    - a. If a Building Inspector suspects a property is undergoing demolition by neglect, the Inspector must present a notice to the owner, as well as the Heritage Preservation Commission.
    - b. If in a hearing, the Commission determines the property is undergoing demolition by neglect, the Commission to notify the property owner, the Building Inspector, all other parties involved, or those that requested such information. Action following the ruling is at the discretion of the court.
    - c. It is within the Heritage Preservation Commission's authority to collaborate and consult the City Council who holds the authority to obtain the property, landmark, or structure.

Sec. 20-? Maintenance of a Historic Property

- (b) Those in charge of a property, landmark or an improvement on a landmark site or in a historic district must preserve the property by ensuring it is maintained and kept in good condition.