

## 22.27 HERITAGE PRESERVATION COMMISSION

- (a) Public Policy and Purpose. The City Council finds that the historical, architectural, archaeological, engineering and cultural heritage of this City is among its important assets. Therefore, the purpose of this section is to establish a municipal program of heritage preservation, as authorized by Minnesota Statutes 471.193, to promote the rehabilitation and conservation of historic properties for the education, inspiration, pleasure and enrichment of the citizens and visitors of Winona.
- (b) Definitions. Certificate of Appropriateness: An approved certificate issued by the Heritage Preservation Commission prior to the construction, demolition, alteration, removal, or relocation of any publicly or privately owned structure or site within a heritage preservation site.

Commission: Means the Heritage Preservation Commission established under the provisions of this section.

Heritage Preservation Site: A single area, building, structure or object, which has been duly designated as a heritage preservation site(s) pursuant to Subsection (k) of this section.

Heritage Preservation District: A concentration of two or more properties linked by significance and located in a contiguous area. A heritage preservation district shall have the same protection and meaning as a heritage preservation site under this section. Land and structures which do not contribute to the significance of the district may be included within the boundaries of a heritage preservation district when necessary to protect the significance and visual unity of the whole.

For purposes of this section, a designated residential site or district is one located within a residential zoning district while a designated commercial site or district is one located within any nonresidential zoning district.

- (c) Established. There is hereby created within and for the City a Heritage Preservation Commission with the following responsibilities:
- (1) To conduct continuing surveys and research in order to identify properties which have historic, architectural, archaeological, engineering or cultural significance to the community.
  - (2) To recommend to the City Council properties which meet the criteria of significance stated herein for designation as heritage preservation sites.
  - (3) To protect heritage preservation sites by public review of all proposed alterations, relocations, demolitions or new construction within designated site boundaries.
  - (4) To advise the property owners of heritage preservation sites and educate the public in appropriate maintenance, rehabilitation or restoration methods. To

encourage continued uses, compatible with their character, of heritage preservation sites.

(5) To review and comment on applications pertaining to land use, signs, subdivisions and site plans on properties designated heritage preservation sites referred by the Planning Commission or City Council.

(6) To advise the Planning Commission and/or the City Council regarding measures required or appropriate for the preservation, protection or maintenance of heritage preservation sites including but not limited to variances or amendments to the zoning code, rules governing construction, demolition, alteration or use, or the removal or repair of blighting influence incompatible with the physical well-being of designated properties.

(7) To promote public recognition and appreciation for heritage preservation sites. It shall periodically publish a register of designated and potential heritage preservation sites and districts, along with guidelines and preservation programs available at that time.

(8) To contract the services, on a permanent or part-time basis, of technical experts and such persons as may be required to perform its duties; subject to approval of the City Council.

(9) To accept the gifts and contributions to be made to the City, and subject to approval of the City Council, make applications and administer grants for the purpose of identifying, preserving, and promoting historic properties.

(10) The commission shall make no application to the National Register or to the State of Minnesota for the designation of a historic site or district without the consent of the City Council.

(d) Commission Composition. The Heritage Preservation Commission shall consist of eleven members, each being a citizen of the City of Winona and holding no paid position with the City. Commission membership shall include the following:

(1) At least one member shall be an architect, or if an architect is not available, an experienced person of the building trades.

(2) At least one member shall be a professional or experienced person in the areas of history, architectural history, archaeology, planning, design, building trades, landscape architecture or law.

(3) One member shall be a member of the Winona County Historical Society.

(4) One member shall be a representative of the City Planning Commission, provided a member of the Planning Commission is willing to serve.

(5) Three members shall be drawn from persons with a demonstrated interest and/or expertise in historic preservation. If no representative of the City Planning Commission is available to sit on the Commission, four members shall

be selected based on their demonstrated interest and/or expertise in historic preservation.

(6) One member from each voting ward in the City.  
Ord. No. 3941.

- (e) Appointment of Members. Members shall be appointed by the Mayor with the approval of the Council. Initial appointments shall be three members for one year, four members for two years and four members for three years. Thereafter, members shall be appointed for terms of three years. Subsequent appointments for other causes shall be filled by appointment for the remainders of the unexpired term. Members shall serve without compensation and continue to hold office until their successors have been appointed and qualified.
- (f) Organization. The commission shall elect from its members such officers as it may deem necessary and the commission shall have the power to designate and appointed from its members various committees with powers and duties of the commission. The commission shall have the power to make whatever rules are necessary for the execution of its duties as set forth in this section. All such rules shall be consistent with the laws of the State of Minnesota, and shall be approved by the City Council, by resolution, before becoming effective. A quorum of the commission shall be six members. However, any recommendation to establish or change a preservation site or district, pursuant to Subsection (k)(5) below, shall require the approval of eight members. All other actions shall require the approval of a majority of those members present.  
Ord. No. 3237 02/06/95.
- (g) Commission Staff. Staff to the Commission shall be the City Planner who shall serve as secretary. The secretary shall:
- (1) Keep minutes and records of all meetings and proceedings.
  - (2) Be responsible for publication of copies of the minutes, reports, and decisions of the commission to the members of the commission and all other applicable agencies and individuals identified herein.
  - (3) Give notice as provided herein or by law for all public hearings conducted by the commission.
  - (4) Be responsible for preparing and administering budgets and grants necessary to carry out commission duties.
- (h) Annual Report. The Commission shall make an annual report by October 31st, containing a statement of its activities and plans, to the Mayor, the City Council, the City Manager, the Building Official, the City Planner, and the State Historic Preservation Officer.
- (i) Meetings. The Commission shall meet not less than four times a year: to initiate and conduct ongoing surveys and nominations of properties, to review potential heritage preservation sites, to make recommendations of properties to City Council for designation, and to prepare the Commission's annual report.

The Commission shall meet at its earliest convenience, when called by the chairman, to review such building permits or applications as are referred to it by the City Building Official or City Planner.

By May 31 of each year, the Commission shall establish goals, objectives, and a tentative budget for the following calendar year. This information shall be submitted to the City Council for consideration during budget deliberations.

(j) Records.

(1) The Commission shall keep current and public a list of all properties designated as heritage preservation sites, or included in the State or the National Register of Historic Places.

(2) The Commission shall provide the Building Official and the City Planner with current lists and maps showing heritage preservation sites and districts for their use in referring applications to the Commission.

(3) The Commission shall conform to the procedures of the Division of Archives and Manuscripts of the Minnesota Historical Society and to Minnesota Statutes 138.17 on the disposition of records.

(4) A separate file in the Office of the Community Development Department is designated as the repository for at least one copy of all Commission minutes, forms, studies, reports, recommendations and correspondence required under Subsections (k), (l) and (m) below. All minutes and records shall be available for public inspection during normal business hours.

(k) Designation or Change of Heritage Preservation Sites/Districts.

(1) Continuing Surveys/Preservation Catalog. Following careful historic resource surveys, the Commission shall undertake to establish and maintain a preservation catalog of community structures, sites and areas having documented historical, architectural, cultural, archaeological, or engineering interest or value. Such documentation shall be used to support the criteria found in Subsection (k)(5) below. The catalog may include single structures or sites, exterior portions of structures, groups of structures, man-made or natural landscape elements, works of art, or integrated combinations thereof and shall serve as the primary source of future district designations. In establishing the catalog, the Commission shall notify and solicit the views of property owners and residents of structures, sites, and areas proposed to be included in it on forms prescribed for that purpose.

(2) Procedure for Site/District Designation. Proceedings to establish or change boundaries of a property listed within the preservation catalog as a preservation site or district may be initiated in one of the following ways:

(i) By petition of an owner of his/her residential or commercial property within a proposed heritage preservation site.

(ii) By petition of 60 percent of the owners of property within a proposed heritage preservation district.

(iii) By resolution of the Heritage Preservation Commission. Such resolution shall be approved by a majority vote of the Commission. A copy of the resolution shall be submitted to the affected property owner(s) within three working days and shall serve as official notice that designation is being considered.

(3) Planning Commission Review. The Heritage Preservation Commission shall advise the City Planning Commission of the proposed designation of a heritage preservation site/district, including boundaries and secure from the City Planning Commission its recommendation with respect to the relationship of the designation to the comprehensive plan of the City of Winona, its opinions as to the effect of the proposed designation upon the surrounding neighborhoods, and its opinion and recommendation as to any other planning consideration which may be relevant to the proposed designation, together with its recommendation of approval, rejection, or modification of the proposed designation. The Heritage Preservation Commission may make such modification, changes, and alterations concerning the proposed designation as it deems necessary in consideration of the recommendations of the City Planning Commission.

(4) State Historic Preservation Office's Review. Prior to making its recommendation to the Council, every proposal of designation by the Commission shall be sent to the State Historic Preservation Office for review and comment in writing within sixty days.

(5) Finding and Recommendations. The eligibility of a property for designation shall be determined by the Commission following a public hearing. Notice of the hearing shall be given to the owner or any person having a legal or equitable interest in the property being proposed for designation, to all property owners of record located within 200 feet of the proposed designation, and be published once in the official newspaper at least fourteen (14) days prior to the hearing. In order to be recommended for designation, the Commission must determine that the property being considered possesses one or more of the following qualities and that the distinguishing characteristics of significance are for the most part original and intact or capable of restoration:

(i) Historic significance: Associated with activities, processes, events, trends or persons of importance to the community, state or nation.

(ii) Architectural significance: Possessing distinctive characteristics of a style, place, period, method or materials of construction, builder or architect.

(iii) Cultural significance: A landmark of man-made or natural features, or a combination, possessing meaning primarily by long association or identification with the community and its citizens.

(iv) Archaeological significance: An area of land possessing the potential to reveal information important to historic or prehistoric studies.

(v) Engineering significance: A work demonstrating a technology, design or method characteristic of a historic period of activity.

Following the consideration of all oral and written comments, including comments from the Planning Commission and State Historic Preservation Office, the Commission shall make a determination with respect to the proposed designation, by resolution, within fourteen days of the hearing.

(6) Council Designation. The Commission shall forward its recommendations, findings, and support data, together with the comments of the Planning Commission and of the State Historic Preservation Office, to the City Council. The City Council shall hold a public hearing prior to making its determination of a proposed designation. The procedure for the hearing shall be the same as is required by the Commission. Following the consideration of all oral and written comments, Council may, by affirmative vote of five members, approve a resolution designating a historic site or district.

(7) Notification of Property Owner and Other Agencies of Designation.

(i) Within ten working days of Council approval, the office of the City Clerk shall record with the Winona County Recorder the legal description of all buildings, lands or areas designated as heritage preservation sites by the Council and shall submit a copy of the Council's resolution to the City Building Official and City Planner.

(ii) Within five working days of Council approval, the secretary shall send a copy of the Council resolution and a letter outlining the obligations resulting from such designation to the owner of record of each designated property.

(8) Affirmation of Existing Zoning. The designation of a heritage preservation site or district shall not change or affect the uses allowed, or restrictions applicable, under any other zoning classification. However, once designated, the additional guidelines of the site or district shall also apply.

(9) Amendment and Rescission of Designation. A petition to amend the boundaries of or rescind any designation may be initiated through one of the following methods:

(i) By petition of any owner of his/her residential or commercial property within an existing heritage preservation site.

(ii) By petition of 60 percent of the property owners located within an existing residential or commercial heritage preservation district.

(iii) By resolution of the Heritage Preservation Commission.

The procedure for an amendment or rescission shall comply with the same procedure set forth herein for designation. In the case of designation rescission, the petition shall set forth reasons as to why

findings made for designation are no longer applicable. A petition for designation rescission may be made if one or more of the following findings are made:

- a. Procedural or professional errors were made in the designation process.
- b. Designated property(s) has been destroyed or radically altered to the point where the majority of its original historic qualities have been lost or removed and cannot economically be replaced.

(I) Certificate of Appropriateness.

(1) Certificate of Appropriateness. An application for a Certificate of Appropriateness shall be made to the Commission before any of the following work is begun on land located within a heritage preservation site or district.

- (i) Any exterior repair, alteration or modification unless otherwise excepted below;
- (ii) Destroying a building in whole or in part;
- (iii) Construction of new buildings or new additions to an existing structure;
- (iv) Construction or replacement of walks, lighting, signs, fences, parking facilities, swimming pools, and other site modifications located either within, or within view of, public street right-of-ways.

A certificate of appropriateness shall not be required for the following activities:

- (i) Painting;
- (ii) Interior remodeling when such work does not, in any way, alter the exterior character of a structure;
- (iii) Use or change in use of a structure;
- (iv) Emergency repairs of a temporary nature to structures affected by fire, vehicle damage, vandalism, wind storm, or the like. Such approval shall be limited to repairs necessary to make the structure wind-tight, waterproof, and free from unauthorized entry. Unless approved by the Commission, temporary repairs shall extend for a period not to exceed 120 days. If required, all final repairs shall be reviewed pursuant to Subsection (1)(2).
- (v) Maintenance or reconstruction where any exterior surface materials are to be replaced with identical materials; where such replacement materials will be installed to the original configuration; and

where such activity will affect no more than 10 percent of the total exterior surface area of the structure.

(2) **Permit Application and Plans.** The Building Official, through the Commission Secretary, shall refer applications for building permits for any action defined in paragraph (1) above to the Commission for review and written approval or disapproval. Every application for a building permit in relation to property designated as a Heritage Preservation Site or District shall be accompanied by plans, photographs, specifications or a written description fully describing the proposed work which will be provided to the Heritage Preservation Commission.

(3) **Commission Review.** The Commission may, by rule, designate a subcommittee of the Commission to review applications and approve Certificates of Appropriateness, authorizing the Building Official to issue permits. All applications which do not meet the criteria of Subsection (1)(6) shall be reviewed at a full Commission meeting.

(i) If full Commission review is required, a public hearing for the purpose of receiving the recommendations from concerned citizens and the applicant shall be conducted. Notice of the time, place and purpose of the hearing shall be published in the official newspaper and sent to the permit applicant at least ten days prior to the date of the hearing. If located within a district, notice shall also be sent to all property owners located within the district.

(ii) If, pursuant to Subsection (1)(6), the Commission determines that the work to be performed does not adversely affect the site, the application shall be approved by resolution. A copy of the resolution, along with conditions applicable to it, shall be given to the applicant and Building Official.

(iii) If it is determined that the work to be performed does adversely affect the site, the application shall be disapproved and the Building Official immediately informed in writing. The Commission shall furnish the permit applicant with a copy of the decision together with recommendations for changes necessary before the Commission will reconsider the permit application. The Heritage Preservation Commission, in any written order denying a permit application, shall advise the applicant of his/her right of appeal to the City Council and include this paragraph in all such orders.

(iv) **Limitations.** If within 20 working days from the filing of building permit application, the Commission has neither approved nor denied the building permit application, the plans and permit application shall be deemed to have been approved by the Commission, and if all other requirements of the City have been met, the Building Official shall authorize a permit for the proposed work. By vote of the Commission and notification of the Building Official, the 20 working day period may be extended by 15 working days in cases where professional study or recommendation is required and the 20 day period is not sufficient to do

the work. No permit shall be issued or work commenced in the event the Commission disapproves the application in accordance with this section.

(4) Appeal to City Council. The permit applicant may appeal the Commission's order and decision to the City Council. Such appeal shall be made within 15 working days of the Commission's order. In considering the appeal, the Council shall follow the appeal procedures outlined in Subsection (1)(3)(i). Notice of the Council's hearing date shall be given to the Commission. Following the consideration of all oral and written comments, Council may, by a majority vote, adopt a resolution approving the permit. A copy of the Council's order shall be given to the applicant and Building Official.

(5) Permit Issuance. The Building Official shall not issue permits for these applications until receiving written approval from the Heritage Preservation Commission or City Council.

(6) Criteria. When reviewing an application as described under this section, the Commission shall consider whether the work affects the heritage preservation site in the following cases.

(i) Proposed alteration or addition to an existing building, structure or site. The Commission's written findings shall refer to the following criteria:

(a) The Commission shall be guided by the Secretary of the Interior's Standards for Rehabilitation, as well as by local standards or guidelines adopted by the Commission for Heritage Preservation Sites, districts and neighborhoods. In all cases, the Commission shall give consideration to the amount and quality of original material and design remaining in the building when applying criteria, guidelines and standards. Consideration shall also be given to clear cases of economic hardship or to deprivation of reasonable use of the owner's property.

(ii) Proposed demolition or removal of a building or structure. The Commission shall consider whether or not the demolition or removal is necessary and its impact on surrounding buildings and neighborhoods. The Commission's written finding shall refer to the following criteria:

(a) Consideration shall be given to the significance or architectural merit of the building itself, in terms of unusual or uncommon design, texture, or materials that could not be reproduced or reproduced only with great difficulty or expense, and, if applicable, the contribution the building makes to the historic or architectural character of the district.

(b) Consideration shall be given to the economic value, usefulness and replacement cost of the building as it now stands and as remodeled or rehabilitated, in comparison to the value or usefulness of any proposed structures designated to replace the present building or buildings, and to what viable alternatives may exist.

(c) Consideration shall be given to the present structural integrity of the building to determine whether or not it constitutes a clear and present danger to the life and safety of the public. The Commission may contract for a professional estimate of the structural integrity and an estimate of the cost of correcting dangerous deficiencies, with Council approval.

(d) Consideration shall be given as to whether or not the demolition is necessary to facilitate a defined public purpose.

(iii) Proposed new construction or relocation. The Commission shall consider the effect of the work on the historic and architectural character of the surrounding buildings and neighborhood. The Commission's written findings shall refer to the following criteria:

(a) Contemporary design for new construction shall not be discouraged, but should be compatible with scale, texture, materials, and other visual qualities of the surrounding buildings and neighborhoods.

(b) The new building should be compatible with the height, width, depth, massing and setback of the surrounding buildings.

(c) The amount of solid wall to window and door openings, and the replacement of window and door openings, should be proportional to that of the surrounding buildings and neighborhood.

(d) The shape and pitch of the roof or cornice should be compatible with that of the surrounding buildings and neighborhood.

(7) Emergency Repair. In emergency situations where immediate repair is needed to protect the safety of the structure and its inhabitants, the Building Official may approve temporary or limited repair without prior Heritage Preservation Commission action. In the case of a permit issued pursuant to this paragraph, the Building Official shall immediately notify the Heritage Preservation Commission of his action and specify the facts or conditions constituting the emergency situation.

(m) Severability. In case any paragraph of this section is held invalid by a court of competent jurisdiction, the invalidity shall extend only to the paragraph affected, and other paragraphs of this section shall continue in full force and effect.

Ord. No. 2975 5/15/89.