

CHAPTER 20
HISTORIC PRESERVATION

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SUBCHAPTER I: GENERAL PROVISIONS

20.01 PURPOSE AND INTENT. It is hereby declared a matter of public policy that the protection, enhancement, perpetuation, and use of improvements or sites of special character or special architectural or historic 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:

(1) Affect and accomplish the protection, enhancement and perpetuation of such improvements, site, and districts which represent or reflect elements of the City's cultural, social, economic, political, and architectural history.

(2) Safeguard the City's historic and cultural heritage, as embodied and reflected in such historic structures, sites, and districts.

(3) Foster civic pride in the notable accomplishments of the past.

(4) Stabilize and improve property values.

(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) Improve and enhance the visual and aesthetic character of the City.

(7) Educate the public regarding the need and desirability of a historic preservation program and its enhancement of the quality of life.

20.02 DEFINITIONS. In this chapter, the definitions shall be as follows:

(1) CERTIFICATE OF APPROPRIATENESS. The certificate issued by the Commission approving alteration, rehabilitation, construction, reconstruction, or demolition of a historic structure, historic site, or any improvement in a historic district.

(2) COMMISSION. The Historic Preservation Commission created under this section.

(3) HISTORIC DISTRICT. An area designated by the Common Council on recommendation of the Commission, that contains two or more historic improvements or sites, as well as those abutting improvement parcels which the Commission determines should fall

under the provisions of this section to assure that their appearance and development is harmonious with such historic structures or historic sites.

(4) HISTORIC SITE. Any parcel of land of historic significance due to a substantial value in tracing the history or pre-history of humanity, 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 or part thereof, used as and constituting part of the premises on which the historic structure is situated.

(5) HISTORIC STRUCTURE. Any improvement that 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 chapter.

(6) IMPROVEMENT. Any building, structure, place, work of art, or other object constituting a physical betterment of real property or any part of such betterment, including streets, alleys, sidewalks, curbs, lighting fixtures, signs, and the like.

(7) IMPROVEMENT PARCEL. The unit of the property that 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 that is treated as a single entity for such tax purposes.

20.03 HISTORIC PRESERVATION COMMISSION COMPOSITION. (1) MEMBERS. A Historic Preservation Commission is hereby created, consisting of seven (7) members. Of the membership, if available in the community, one shall be a builder or contractor; one shall be a licensed real estate broker; one shall be an alderperson; and four shall be citizen members. Each shall have to the highest extent practicable, a known interest in historic preservation.

(2) APPOINTMENTS; TERMS. The Mayor shall appoint the Commissioners subject to confirmation of the Common Council. Of the initial members so appointed, two shall serve a term of one year, two shall serve a term of two years and three shall serve a term of three years. Thereafter the term for each member shall be three years.

20.04 HISTORIC STRUCTURE, HISTORIC SITE AND HISTORIC DISTRICT DESIGNATION CRITERIA. (1) PURPOSE. For purposes of this ordinance, a historic structure, historic site, or historic district

a historic structure, historic site, or historic district designation may be placed on any site, natural or improved, including any building, improvement or structure located thereon, or any area of a particular historic architectural, archeological or cultural significance to the City, such as historic structures, sites or districts that:

(a) Exemplify or reflect the broad cultural, political, economic, or social history of the nation, state, or community; or

(b) Are identified with historic personages or with important events in national, state, or local history; or

(c) Embody the distinguished 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

(d) Are representative of the notable work of a master builder, designer, or architect who influenced his/her age; or

(e) Have yielded, or may be likely to yield, information important to prehistory or history.

(2) INTERPRETATION. The Commission may adopt specific operating guidelines for historic structure, historic site and historic district designation providing such are in conformance with the provisions of this chapter.

20.05 COMMISSION POWERS AND DUTIES. (1) HISTORIC DESIGNATIONS. The Commission shall have the power subject to §20.06 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 §20.04. Historic districts shall be approved by the Common Council. Once designated, such historic structures, sites, and districts shall be subject to the provisions of this chapter.

(2) REGULATION OF CONSTRUCTION, RECONSTRUCTION, ALTERATION AND DEMOLITION. (a) Certificate of Appropriateness. No owner or person in charge of a historic structure, historic site, or structure within a historic district shall reconstruct, alter or demolish all or any part of the exterior of such property or construct any improvement upon such designated property or properties or cause or permit any such work to be performed upon such property or demolish such property unless a Certificate of Appropriateness has been granted by the Historic Preservation

Commission. Unless such a certificate has been granted by the Commission, the Building Inspector shall not issue a permit for such work.

(b) Application Approval. Upon filing of any application for a Certificate of Appropriateness with the Commission, the Commission shall approve the application unless:

1. In the case of a designated historic structure or historic site, the proposed work would detrimentally change, destroy or adversely affect any exterior feature of the improvement or site upon which said work is to be done;
2. In the case of the construction of a new improvement upon a historic site, or within a historic district, the exterior of such improvement would adversely affect or not harmonize with the external appearance of other neighboring improvements on such site or within the district;
3. In the case of a property located in a historic district, the proposed construction, reconstruction, exterior alteration, or demolition does not conform to the purpose or intent to this chapter and the objectives and design criteria of the historic preservation plan for said district;
4. The building or structure is of such architectural 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;
5. The building or structure is of such old and unusual common design, texture, and/or material that it could not be reproduced without great difficulty and/or expense;
6. In the case of a request for a demolition permit, the denial of the permit would result in the loss of all reasonable and beneficial use of or return from the property; or
7. In the case of a request for the demolition of a deteriorated building or structure, any hardship or difficulty claimed by the owner is self-created or is the result of any failure to maintain the property in good repair.
8. The owner of the historic property submits information that the denial of the Certificate of Appropriateness will

deprive the owner of all reasonable use of, or economic return on, the property.

(c) Determination. In addition to the provisions in sub. (b), in determining whether to issue a Certificate of Appropriateness, the Commission shall consider any or all of the following standards:

1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
2. The historic character of a 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 and use. Changes that create a false sense of historic development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
4. Most properties change over time; changes that have acquired historic significance in their own right shall be retained and preserved.
5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.
6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical or pictorial evidence.
7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
8. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

9. New additions, exterior alterations, or related new construction shall not destroy historic materials that differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

10. New additions and adjacent or related new construction shall 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.

(d) Building Permit Required. If the Commission determines that the application for a Certificate of Appropriateness and the proposed changes are consistent with the character and features of the property or district, and with the above guidelines, it shall issue the Certificate of Appropriateness. Upon the issuance of such Certificate, a Building Permit shall then be issued by the Building Inspector. The Commission shall make this decision within forty-five (45) days of the filing of the application.

(e) Requirements of City, Public Utility and Transportation Companies. Agencies of the City and all public utility and transportation companies, undertaking projects affecting historic structures, historic sites, or historic districts, shall be required to obtain a Certificate of appropriateness prior to initiating any changes in the character of the street, paving, sidewalks, utility installations, lighting, walls, fences, structures, and buildings on property, easements, or streets franchised by the City.

(f) Applicant Responsible for Obtaining All Required Permits. The issuance of a Certificate of Appropriateness shall not relieve the applicant from obtaining other permits and approvals required by the City. A building permit or other municipal permit shall be invalid if it is obtained without the presentation of the Certificate of Appropriateness required for the proposed work.

(g) Failure to Comply. Compliance with Certificates of Appropriateness shall be started within twelve (12) months after the issuance of the Certificate, and the work shall conform to the provisions of the Certificate. The City may inspect the work during and after the construction in order to assure compliance. Failure to comply with a Certificate of Appropriateness or failure to obtain a Certificate of Appropriateness shall be in violation of this section. In

addition to other penalties and remedies, the City shall issue a stop work order and all work shall cease on the designated property. No additional work shall be undertaken as long as the stop work order shall continue to be in effect.

(h) Exemptions. Ordinary maintenance and repairs may be undertaken without a Certificate of Appropriateness provided that the work involves repairs to existing features of a historic structure or site or the replacement of elements of a structure with pieces identical in appearance and provided that the work does not change the exterior appearance of the structure or site.

(3) APPEALS. Should the Commission fail to issue a Certificate of Appropriateness due to the failure of the proposal to conform to the guidelines, the applicant may appeal such decision to the Common Council within thirty (30) days. In addition, if the Commission fails to issue a Certificate of Appropriateness, the Commission shall, with the cooperation of the applicant, work with the applicant in an attempt to obtain a Certificate of Appropriateness within the guidelines of this ordinance.

(4) RECOGNITION OF HISTORIC STRUCTURES, SITES AND DISTRICTS. At such time as a historic structure, site or district has been properly designated, the Commission may recommend to the Common Council the preparation and erection of 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 accepted name of the historic property, the date of its construction of significance, and other information deemed proper by the Commission.

20.06 PROCEDURES. (1) DESIGNATION OF HISTORIC STRUCTURES AND HISTORIC SITES. (a) Notifying Property Owners. The Commission may, after notice and public hearing, designate historic structures and historic sites, or rescind such designation or recommendation, after application of the criteria in §20.04. At least ten (10) days prior to such hearing, the Commission shall notify the owners of record, as listed in the office of the City Assessor, who are owners of property in whole or in part situated within two hundred (200) feet of the boundaries of property affected. These owners shall have the right to confer with the Commission prior to final action by the Commission on the designation.

(b) Designation or Rescission of Historic Structure or Historic Site. The Commission shall 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 designation or rescission. Within ten (10) days after the close of the public hearing, the Commission may designate the property as either a historic structure or historic site, or rescind the designation. After the designation, or rescission has been made, notification shall be sent to the property owner or owners. Notification shall also be given to the City Clerk, Building Inspector, City Planner, and City Assessor. The Commission shall cause the designation or rescission to be recorded in the Office of the Lafayette County Register of Deeds.

(2) CREATION OF HISTORIC DISTRICT. (a) Historic Preservation Plan. For preservation purposes, the Historic Preservation Commission shall select geographically defined areas within the City to be designated as Historic Districts and within shall prepare a historic preservation plan for each area. A Historic District may be designated for any geographic area of particular historic, architectural or cultural significance to the City, after application of the criteria in §20.04 above. Each historic preservation plan prepared for or by the Historic Preservation Commission shall include a cultural and architectural analysis supporting the historic significance of the area, the specific guidelines for development, and a statement of preservation objectives.

(b) Review and Adoption Procedure. 1. The Historic Preservation Commission shall hold a public hearing when considering the plan for a Historic District. Notice of the time, place, and purpose of the public hearing shall be sent by the City Clerk-Treasurer to the Alderpersons of the Aldermanic District of Districts in which the Historic District is located, and the owners of record, as listed in the office of the City Assessor, who are owners of the property within the proposed Historic District or are situated in whole or in part within two hundred (200) feet of the boundaries of the proposed Historic District. Said notice is to be sent at least ten (10) days prior to the date of the public hearing. Following the public hearing, the Historic Preservation Commission shall vote to recommend, reject or withhold action on the plan.

2. The Common Council, upon receipt of the recommendations from the Historic Preservation Commission shall hold a public hearing, notice to be given as noted in subparagraph 1. above and shall, following the public hearing, either designate or reject the Historic District. Designation of the Historic District shall constitute adoption of the plan prepared for that district and direct the implementation of said plan.

20.07 INTERIM CONTROL. No building permit shall be issued by the Building Inspector for alteration, construction, demolition, or removal of a nominated historic structure, historic site, or any property or structure within a nominated historic district from the date of the meeting of the Historic Preservation Commission at which a nomination form is first presented until the final disposition of the nomination by the Historic Preservation Commission or the City Council unless such alteration, removal or demolition is authorized by formal resolution of the City Council as necessary for public health, welfare or safety. In no event shall the delay be for more than one hundred eighty (180) days.

20.08 to 20.09 (Reserved)

SUBCHAPTER II: FLOOD PROOFING HISTORICAL STRUCTURES

20.10 DEFINITIONS. The terms used herein shall be defined as follows:

(1) FLOOD PROOFING. Any combination of structural and non-structural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

(2) HISTORIC STRUCTURE. Any structure that is:

a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;

b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district preliminarily determined by the Secretary to qualify as a registered historic district;

c) Individually listed on a state inventory of historic places in states with historic preservation programs that have been approved by the Secretary of the Interior; or

d) Individually listed on a local inventory of historic places in communities with historic preservation programs.

(3) SUBSTANTIAL IMPROVEMENT. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures that have incurred "substantial damage" regardless of the repair work performed. The term does not, however, include either:

a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and that are the minimum necessary to assure safe living conditions; or

b) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

20.11 STATEMENT OF PURPOSE. The purpose of these rules is to:

- (1) Permit only that development of historic buildings that:
 - a) Is appropriate in light of the probability of flood damage and the need to reduce flood losses;
 - b) Is an acceptable social and economic use of the buildings in relation to the hazards involved; and
 - c) Does not increase the danger to human life.

(2) Require consistency of implementation between federal, state, and local floodplain management programs, (i) realizing that the Wisconsin State Statutes refer directly to the Federal Code of Regulations, Chapter 44, Section 60.6 for their variance procedures to flood-proof historic structures, and (ii) noting that this section of Darlington's Historic Preservation Ordinance is based upon 44CFR.

20.12 GENERAL STANDARDS APPLICABLE TO HISTORIC STRUCTURES. No new construction or substantial improvements to a historic structure shall be permitted unless:

(1) The proposed historic building site will be reasonably safe from flooding. If the proposed historic building site is in a flood-prone area, all new construction and substantial improvements to that building shall:

- a) Be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic load, including the effects of buoyancy;
- b) Be constructed with materials resistant to flood damage;
- c) Be constructed by methods and practices that minimize flood damages; and
- d) Be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(2) The proposed construction on a historic building in a flood-prone area assures that:

- a) All such construction is consistent with the need to minimize flood damage within the flood-prone area;

b) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and

c) Adequate drainage is provided to reduce exposure to flood hazards.

(3) All plans for proposed development to a historic building include and utilize any base flood elevation and floodway data available from the City, State, or a federal source as criteria for any new construction or substantial improvements or other developments and specify:

a) The base flood elevation of the lower floor (including the basement) of all new and substantially improved structures; and

b) The level (in relationship to the base flood elevation) to which the structure has been flood-proofed.

(4) All new construction and substantial improvements of non-residential historic structures within a flood-prone area have the lowest floor (including the basement) elevated to or above the base flood level, or together with attendant utility and sanitary facilities, be designed so that below the base flood level, the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

(5) Where a non-residential historic structure is intended to be elevated above or made watertight below the base flood elevation a registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction, and shall certify that the design and methods of construction are in accordance with the accepted standards of practice for meeting the applicable provisions of this chapter.

20.13 VARIANCES AND EXCEPTION. (1) APPLICATION. A variance or exception may be granted for any provision of this subchapter, upon application to the Board of Zoning Appeals. After examining the applicant's hardships, the Board shall approve or disapprove the request.

(2) CRITERIA FOR GRANTING VARIANCE. Variances for provisions of this subchapter shall be granted upon a determination that:

a) The proposed repair, rehabilitation, or substantial improvement of the historic structure will not preclude the structure's continued designation as a historic structure.

b) The variance is the minimum necessary to preserve the historic character and design of the structure.

c) The applicant has made a showing of good and sufficient cause.

d) Failure to grant the variance would result in exceptional hardship to the applicant.

e) A variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

f) The variance is the minimum necessary, considering the flood hazard, to afford relief.

(3) The City shall notify the applicant in writing that:

a) The issuance of a variance to repair or reconstruct a structure below the base flood elevation will result in increased premium rates for flood insurance.

b) Construction below the base flood elevation increases risk to life and property.

(4) The notifications made pursuant to sub. (3) shall be maintained with a record of all variance actions made under this subchapter.

20.14 to 20.15 (Reserved)

ENFORCEMENT

20.16 PENALTIES FOR VIOLATIONS. Any person or persons, firm or corporation, who fails to comply with the provisions of this chapter shall, upon conviction thereof, be subject to a forfeiture in conformity with Chapter 25 for each separate violation. Each and every day during which a violation continues shall be deemed to be a separate offense. Notice of Violations shall be issued by the Building Inspector.