

# Chapter 29<sup>1</sup>

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## HISTORIC PRESERVATION REGULATIONS

- 29.01 Purpose and Intent
- 29.02 Definitions
- 29.03 Historic Preservation Commission Composition
- 29.04 Historic Structure, Historic Site and Historic District Designation Criteria
- 29.05 Powers and Duties
- 29.06 Procedures
- 29.07 Interim Control
- 29.08 Conformation with Regulations
- 29.09 Penalties for Violation
- 29.10 Emergency Conditions
- 29.11 Severability

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### 29.01 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 are a public necessity and are required in the interest of health, prosperity, safety and welfare of the people. The purpose of this section is to:

- (1) Effect and accomplish the protection, enhancement, and perpetuation of such improvements, sites and districts, which represent or reflect elements of Sheboygan Falls' cultural, social, economic, political and architectural history.
- (2) Safeguard Sheboygan Falls' 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 Sheboygan Falls' 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 Sheboygan Falls.
- (7) Educate the public regarding the need and desirability of a city historic preservation program and its enhancement of the quality of life.

### 29.02 Definitions

The definitions shall be as follows:

- (1) Certification of Appropriateness means 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 means the Historic Preservation Commission created under this section.
- (3) Historic district is an area designated by the Sheboygan Falls Common Council on recommendation of the Commission that contains two or more historic improvements or sites.
- (4) Historic site means any parcel of land of historic significance due to substantial value in tracing the history or prehistory of man, 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 means any improvement which has a special character or special historic interest or value as part of the development, heritage or cultural characteristics of Sheboygan Falls, state or nation and which has been designated as a historic structure pursuant to the provisions of this chapter.

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

### **29.03 Historic Preservation Commission Composition**

The Historic Preservation Commission shall consist of not less than three (3) nor more than six (6) members and shall be appointed by the Mayor of Sheboygan Falls subject to confirmation by the Common Council, all as more specifically set forth in Section 1.32 of this Code.

### **29.04 Historic Structure, Historic Site and Historic District Designation Criteria**

- (1) For purposes of this ordinance, 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 particular historic, architectural, archeological or cultural significance to Sheboygan Falls such as historic structures, sites or districts which:
  - (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 distinguishing characteristics of an architectural type or specimen inherently valuable for a study of a period, style, method of construction, or of indigenous material or craftsmanship; or
  - (d) Are representative of the notable work of a master builder, designer or architect who influenced his age; or
  - (e) Have yielded, or may be likely to yield, information important to prehistory or history.
- (2) The Commission shall adopt specific operating guidelines for historic structure, historic site and historic district designation providing such are in conformance with the provisions of this ordinance.

### **29.05 Powers and Duties**

- (1) Designation -

The Commission shall make recommendations to the Common Council who shall have the power, subject to Section 29.04, to designate historic structures and historic sites and to recommend designation of historic districts within Sheboygan Falls city limits. Such designations shall be made based on Section 29.04. Historic districts shall be approved by

the Common Council. Once designated, such historic structures, sites and districts shall be subject to all provisions of this ordinance.

- (2) Regulation of Construction, Reconstruction, Alteration and Demolition -
- (a) 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. Also, unless the Commission has granted such certificate, the building inspector shall not issue a permit for any such work.
- (b) 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; or
  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; or
  3. In the case of any property located in a historic district, the proposed construction, reconstruction, exterior alteration or demolition does not conform to the purpose and intent of the chapter and to the objectives and design criteria of the historic preservation plan for said district; or
  4. The building or structure is of such architectural or historical significance that its demolition would be detrimental to the public interest and contrary to the general welfare of the people of Sheboygan Falls and the state; or
  5. The building or structure is of such old and unusual or uncommon design, texture and/or material that it could not be reproduced without great difficulty and/or expense; or
  6. Retention of the building or structure would promote the general welfare of the people of Sheboygan Falls or the state by encouraging the study of American history, architecture, and design, or by developing an understanding of American culture and heritage; or
  7. The building or structure is in such a deteriorated condition that it is not structurally or economically feasible to preserve or restore or use it, provided that any hardship or difficulty claimed by the owner which is self-created or which is the result of any failure to maintain the property in good repair cannot qualify as a basis for the issuance of a Certificate of Appropriateness; or
  8. Any new structure proposed to be constructed, or change in use proposed to be made, is compatible with the buildings and character of the area in which the subject property is located.

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- (c) In addition, in determining whether to issue a Certificate of Appropriateness, the Commission shall consider and may give decisive weight to 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, place and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
  4. Most properties change over time; those 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 material 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 characterize the property. The new work shall be 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) 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, it shall issue the Certificate of Appropriateness. The Commission shall make this decision within forty-five (45) days of the filing of the application.

- (e) Should the Commission fail to issue a Certificate of Appropriateness due to the failure of the proposal to conform to the guidelines, the applicant will be issued a written decision outlining the reasons for any denial of a property owner's building or remodeling project. This guideline provides the property owner with a specific basis by which the owner may appeal such decision to the Common Council within forty-five (45) 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.
- (f) 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 street paving, sidewalks, utility installation, lighting, trash receptacles, benches, walls, fences, structures, and buildings on property easements, or streets owned or franchised by Sheboygan Falls. Any denial of a Certificate of Appropriateness shall have the same rights of appeal listed in Sections 29.05,(2),(e), with final determination to be made by the Common Council.
- (g) The issuance of a Certificate of Appropriateness shall not relieve the applicant from obtaining other permits and approvals required by Sheboygan Falls. 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.
- (h) Compliance with Certificates of Appropriateness shall be started within twelve (12) months after the issuance of the certificate, and work shall conform to the provisions of the certificate. Failure to comply with a Certificate of Appropriateness or failure to obtain a Certificate of Appropriateness shall be a violation of this section. In addition to other penalties and remedies, the City of Sheboygan Falls shall issue a stop work order, and all work shall cease on the designated property.
- (i) 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 of the structure or site and does not require the issuance of a building permit.

## 29.06 Procedures

- (1) Designation of Historic Structures, Historic Sites and Historic Districts -
  - (a) The Commission may, after notice and public hearing, designate historic structures, historic sites and recommended historic districts, or rescind such designation or recommendation, after application of the criteria in Section 29.05 above. At least ten (10) days prior to such hearing, the Commission shall notify the owners on record, as listed in the office of the City Clerk, who are owners of property in whole or in part situated within two hundred (200) feet of the boundaries of the property affected or within the boundaries of the historic district. These owners shall have the right to confer with the Commission prior to final action by the Commission on the designation. Notice of such hearing shall also be published as Class 1 Notice, under the Wisconsin Statutes. The Commission shall also notify the following: Department of Public Works,

Park Board, Fire and Police Department, Building Inspector, the Utility, and Planning Commission. Each such department may respond to the Commission within thirty (30) days of notification with its comments on the proposed designation or rescission.

- (b) 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 designation or recession. Within ten (10) days after the close of the public hearing, the Commission may designate the property as either a historic structure, historic site or recommend its inclusion in a historic district, or rescind the designation. After the designation or rescission has been made, notification shall be sent to the property owner or owners. Notification shall be given to the City Clerk, Building Inspector, Planning Commission and the Mayor. The Commission shall cause the designation or rescission to be recorded, at city expense, in the Sheboygan County Register of Deeds Office, or the recommendation to be submitted to the Common Council as provided by Section 29.06, (1).

(2) Creation of Historic District -

- (a) For preservation purposes, the Historic Preservation Commission shall select geographically defined areas with Sheboygan Falls to be designated as Historic Districts. 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 Section 29.04 above.

- (b) Review and Adoption Procedure:

1. Historic Preservation Commission. The Historic Preservation Commission shall hold a public hearing when considering the plan of a Historic District. Notice of the time, place and purpose of such hearing shall be given by publication as a Class 1 Notice under the Wisconsin Statutes in the official Sheboygan Falls paper. Notice of the time, place and purpose of the public hearing shall also be sent by the City Clerk to the Aldermen of the Aldermanic District or Districts in which the Historic District is located, and the owners of record, as listed in the office of the City Clerk, 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. The Common Council, upon receipt of the recommendation 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.

## 29.07 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 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 Common Council unless such alteration, removal or demolition is authorized by formal resolution of the Common Council as necessary for public health, welfare or safety. In no event shall the delay be for more than one hundred eighty (180) days.

### **29.08 Conformation with Regulations**

Every person in charge of a historic structure, historic site or improvement in a Historic District shall maintain same or cause or permit it to be maintained in a condition consistent with the provisions of this ordinance. The Common Council may appoint the building inspector or any other individual or group of individuals to enforce this ordinance.

### **29.09 Penalties for Violation**

Any person or persons violating any provisions of this section may be fined not less than Twenty Dollars (\$20.00), but not more than Two Hundred Dollars (\$200.00), for each separate violation. Each and every day during which a violation continues may be deemed to be a separate offense. The building inspector shall issue notice of violations.

### **29.10 Emergency Conditions**

In any case where the building inspector determines that there are emergency conditions dangerous to life, health or property affecting a historic structure, site or a property in a Historic District, the building inspector may order the remedying of these conditions without the approval of the Commission. The building inspector shall promptly notify the Commission of the action being taken. When the emergency conditions do not require demolition, the building inspector shall make every effort to carry out the intent of this ordinance and to use the design guidelines of the Commission when remedying the emergency condition.

### **29.11 Severability**

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the remainder of this chapter and the application of such provisions to other persons or circumstances shall not be affected thereby.