

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 in ordinance form prepared for that district and direct the implementation of said plan. Property owners may appeal such decision to the common council within 30 days.

(j) **REGULATION OF CONSTRUCTION, RECONSTRUCTION, AND EXTERIOR ALTERATION.**

- (1) Certificate of Appropriateness. A Certificate of Appropriateness is required before a building permit can be issued for the demolition, new construction, exterior alteration, modification or addition to a designated historic property. Any building permit not issued in conformity with this ordinance shall be considered void. Acceptable exterior alterations include, but are not limited to, the construction of additions, the installation of siding, windows, doors, awnings, and signage, or the application of paint or other exterior coatings.
 - a. Such application shall contain a description and sketch of the proposed changes.
 - b. A copy of the procedures for Landmarks Commission review shall be provided in writing to each applicant.
 - c. Within ten (10) days of the referral from the Director of Community Development, the Landmarks Commission shall schedule a meeting to review said application. The Landmarks Commission shall utilize the following criteria to evaluate the appropriateness of the proposed change.
 1. In the case of a designated historic district, structure or site, the proposed work should not detrimentally change, destroy or adversely affect any exterior architectural feature of the improvement upon which said work is to be done; and,
 2. In the case of the construction of a new structure upon a historic site, the exterior of such improvement should not adversely affect the external appearance of other neighboring improvements. Such improvement shall also harmonize with the external appearance of other neighboring improvements on such site; and,
 3. In the case of any property located in a designated historic district the proposed construction, reconstruction, or exterior alteration shall conform to the objectives and design criteria of the Historic Preservation Plan.
- (2) If the Landmarks Commission determines the landmark, landmark site, or property within a historic district would be adversely affected by the proposed change or if for any other reason the Commission rejects the request, the Commission shall state in writing the reasons.
- (3) Should the Landmarks Commission fail to act within the specified time period or refuse to issue a certificate of appropriateness due to the failure of the proposal to meet the guidelines, the applicant may appeal to the Common Council.
- (4) If a Certificate of Appropriateness is granted, building permit applications shall be made to the Director of Community Development. The application for a Certificate of Appropriateness must be signed by the owner or his authorized representative, and the form must be signed by the chairman of the Landmarks Commission stating its approval, denial, or approval with conditions and the reasons for the decision.

- (5) When considering an application for a Certificate of Appropriateness for new construction, alteration, repair, or restoration, the Commission shall use the Secretary of the Interior's Standards for Rehabilitation as guidelines in making its decisions. In addition, the Commission may adopt more specific guidelines for local historic districts and local historic buildings. These guidelines serve as the basis for determining the approval, approval with modifications, or denial of an application.
- a. The Secretary's Standards for Rehabilitation are:
1. A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.
 2. The historic character of a property shall be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.
 3. Each property will 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 elements from other buildings, will not be undertaken.
 4. Changes to a property that have acquired historic significance in their own right will be retained and preserved.
 5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.
 6. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.
 7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
 8. Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.
 9. New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale, and proportion, and massing to protect the integrity of the property and its environment.
 10. New additions and adjacent or related new construction will 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.

- (k) **REGULATION OF DEMOLITION AND NEW CONSTRUCTION.** No portion of a designated historic structure or site shall be demolished, nor shall a new building be constructed or new use established in a historic district unless such demolition, construction or use complies with this Section.
- (1) A permit is required as described in Section (g). Application shall be made to the Director of Community Development utilizing the procedures enumerated in Section (g)(1-2).
 - (2) In determining whether to issue a certificate of appropriateness for demolition, new construction or alternate use, the Landmarks Commission shall consider:
 - a. Whether the building or structure is in such a deteriorated condition that it is not structurally or economically feasible to preserve or restore it.
 - b. Whether any prospective new structure, or change in use would be compatible with the buildings and environment or the district in which the subject property is located.
 - c. Whether the building or structure is of such architectural or historic significance that this demolition would be detrimental to the public interest and contrary to the general welfare of the people of the City and the state.
 - d. Whether demolition of the property would be contrary to the purpose and intent of this chapter and to the objectives of the Historic Preservation Plan.
 - e. 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.
 - f. Whether retention of the building or structure would encourage study of American history, architecture and design or develop and understanding of American culture and heritage.
 - (3) These provisions shall not apply to any building or structure which has been determined by the Building Inspector in consultation with the Community Development Director to fulfill the requirements of Sec. 66.05 Wis. Stats., and Sec. 11-7-5 and Sec. 15-5-13 City of Menasha Code, or if the City or any other governmental entity is proceeding under Ch. 32 Wis. Stats.
- (l) **PENALTIES.**
- (1) Any person who alters, or constructs a building or structure in violation of this chapter shall be required to restore the building or structure and its site to its appearance prior to the violation. Such restoration shall be completed within such time frame as set by the Landmarks Commission using materials, building design and construction methods approved by said Commission. Failure to complete the restoration in conformance with the requirements of the Landmarks Commission shall constitute a violation of this ordinance. Violations shall be subject to the penalties listed in Section 13-1-135 of the Menasha Code of Ordinances. Each day the violation continues shall constitute a separate offense.
 - (2) Any person who demolishes a building or structure in violation of Section (h) shall forfeit a sum equal to fifty percent (50%) of the value of the building or structure, should the Landmarks Commission and Common Council make a finding after a hearing that the demolished structure had major historical significance. The value shall be determined by using the assessed value from the previous year's property tax assessment as equalized by the Wisconsin Department of Revenue.